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LEGISLATIVE HISTORY

Public Law 662
S. 1688

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INDEX AND SUMMARY OF S. 1688

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May 12, 1955	Reps. Dague and Knutson introduced H. R. 6201 and H. R. 6203 which were referred to the House Committee on Agriculture. Remarks of Rep. Knutson. Print of bills as introduced.
Mar. 21, 1956	Senate committee ordered S. 1688 reported with amendment.
Mar. 22, 1956	Senate committee reported S. 1688 with amendment. Senate Report No. 1701. Print of bill and report.
Mar. 26, 1956	Senate passed S. 1688 as reported.
Mar. 27, 1956	S. 1688 was referred to House Committee on Agriculture. Print of bill as referred.
June 12, 1956	Hearings: House Committee on Agriculture on S. 1688, H. R. 6201, 6203 and 6219. sub- House/committee ordered S. 1688 reported.
June 21, 1956	House committee ordered S. 1688 reported.
June 26, 1956	House committee reported S. 1688 without amendment. House Report No. 2473. Print of bill and report.
July 2, 1956	House passed S. 1688 without amendment.
July 9, 1956	Approved: Public Law 662, 84th Cong.

DIGEST OF PUBLIC LAW 662

FEDERAL SEED ACT AMENDMENTS. Provides that in order to constitute a criminal offense a violation of the Act or regulations thereunder must be committed knowingly or as a result of gross negligence or of a failure to make a reasonable effort to determine the pertinent facts. Provides for a civil penalty, payable to the United States, for any violation of the Act or regulations.

FEDERAL SEED ACT AMENDMENT

HEARING
BEFORE THE
SUBCOMMITTEE ON
EQUIPMENT, SUPPLIES, AND MANPOWER
OF THE
COMMITTEE ON AGRICULTURE
HOUSE OF REPRESENTATIVES
EIGHTY-FOURTH CONGRESS
SECOND SESSION
ON
S. 1688, H. R. 6201, H. R. 6203
and H. R. 6219

JUNE 12, 1956

Printed for the use of the Committee on Agriculture

Serial CCC



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GOVERNMENT PRINTING OFFICE
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FEDERAL SEED ACT AMENDMENT

TUESDAY, JUNE 12, 1956

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON EQUIPMENT, SUPPLIES, AND
MANPOWER, COMMITTEE ON AGRICULTURE,
Washington, D. C.

The subcommittee met, pursuant to notice, at 10 a. m., in room 1308, New House Office Building, Hon. E. C. Gathings presiding.

Present: Representatives Gathings, Abbitt, Thompson, and Hoeven.

Also present: Representatives Hagen, Knutson, Lovre, and King.

Mr. GATHINGS. The committee will come to order.

Mrs. KNUTSON. You came here to explain the seed bill.

Mr. ROLLIN. I came here to represent the Department, and to say that the Department has no objection to the wording of the amendments as passed by the Senate. I will be glad to go into any details of that.

However, I believe that the Department's position is set forth in the letter addressed to Senator Ellender, in the report on the passage of the Senate bill.

Mr. GATHINGS. I wondered if we could not have the letter to which you referred, directed to Senator Ellender, dated June 16, 1955, placed in the record at this point. Without objection it will be so done. That is signed by Mr. Butz, Acting Secretary.

And also in the Senate report, is a letter from True D. Morse, Acting Secretary, under date of November 4, 1955, directed to Senator Ellender. Without objection that will be incorporated in the record, as well as S. 1688, H. R. 6201, H. R. 6203, and H. R. 6219.

(Rept. No. 1701, S. 1688, H. R. 6201, H. R. 6203, and H. R. 6219 are as follows:)

[S. Rept. No. 1701, 84th Cong., 2d sess.]

The Committee on Agriculture and Forestry, to whom was referred the bill (S. 1688) to amend section 406 of the Federal Seed Act, having considered the same, report thereon with a recommendation that it do pass with amendments.

This bill would remove the criminal penalty for inadvertent violation of the Federal Seed Act where no criminal intent is present, and provides a civil penalty for such violation. Under existing law shippers of seed may be subject to criminal penalty and the stigma attached thereto if they fail to make a proper analysis and certification of the seed shipped. Your committee feels that this is unnecessarily strict. The language of the bill was worked out by your committee with the seed trade and the Department of Agriculture, and is satisfactory to all.

Sections 2, 3, and 4 of the bill, which would be added by committee amendments, contain technical amendments required as a result of the substantive changes made by the first section of the bill.

The committee amendments are fully explained by the attached letters from the Department of Agriculture.

DEPARTMENT OF AGRICULTURE,
Washington 25, D. C., June 16, 1955.

Hon. ALLEN J. ELLENDER,
Chairman, Committee on Agriculture and Forestry,
United States Senate.

DEAR SENATOR ELLENDER: This is in reply to your letter of April 15 requesting a report on S. 1688, a bill to amend section 406 of the Federal Seed Act.

This Department recommends that the bill be passed, provided it is changed as suggested below.

The effect of the proposed amendment is twofold. The insertion of the word "knowingly" in the proposed subsection 406 (a) would make it necessary to prove a measure of intent to establish a violation of the act, and the new subsection 406 (b) authorizes a civil action for the assessment of a penalty, in which case it would not be necessary to establish intent.

The necessity to prove that a violation was committed knowingly under the Importation of Adulterated Seeds Act of 1912, as amended, was one of the principal causes for the repeal of this act and its supersedure by the Federal Seed Act in 1939. The word "knowingly" was deliberately omitted from the Federal Seed Act. However, prosecutions are not recommended under this act unless the Department is believed to have evidence of knowledge, gross negligence, or disregard of the requirements of the act, or the regulations thereunder. The Department believes that criminal action should be available in these three classes of cases and suggests that if section 406 is to be amended to require some element of knowledge or intent for criminal prosecutions, the amendment should specifically provide for prosecution in such classes of cases. It is suggested that in that event, the provisions of section 406 be amended to read as follows:

"Sec. 406. (a) Any person who knowingly, or as a result of gross negligence, or as a result of disregard of the requirements of this Act or the rules and regulations made and promulgated thereunder, violates any provision of this Act or such rules and regulations shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall pay a fine of not more than \$1,000, for the first offense, and upon conviction for each subsequent offense not more than \$2,000."

The Department does not object to the proposed new subsection 406 (b) providing for civil penalties, although it is not known how effective a deterrent to violations the civil penalties may prove to be.

It is recommended that, if proposed subsection 406 (b) is enacted into law, incidental changes be made in sections 204 and 412 of the act so that these sections would read, respectively, as follows:

SEC. 204. The use of a disclaimer or nonwarranty clause in any invoice, advertising, labeling, or written, printed, or graphic matter, pertaining to any seed shall not constitute a defense, or be used as a defense in any way, in any prosecution or other proceeding brought under the provisions of this Act, or the rules and regulations made and promulgated thereunder.

"SEC. 412. The institution of any one of the proceedings provided for in sections 405, 406, 409, 410, and 411 shall not bar institution of any of the others, except that action shall not be instituted under both subsections 406 (a) and (b) for the same cause of action. Nothing in this Act shall be construed as requiring the Secretary of Agriculture to recommend prosecution, or institution of civil penalty proceedings, libel proceedings, cease-and-desist proceedings, or proceedings for the enforcement of a cease-and-desist order, for minor violations of this Act or the rules and regulations made and promulgated thereunder whenever he believes that the public interest will be adequately served by suitable written notice or warning."

It is recommended that a savings clause be included in the bill providing that the amendments made by it would apply only with respect to violations occurring after the date of enactment, so as to avoid questions concerning prosecutions of offenses previously committed.

These amendments, if approved, are not expected to increase the cost of administration of the Federal Seed Act.

The Department is considering recommending the enactment of various other amendments of the Federal Seed Act in a separate bill which it is anticipated will be sent to the Congress in the near future. That bill would make certain changes in section 204 not reflected in the foregoing proposal concerning that section.

In view of the subsequent request that this report be submitted today we are not awaiting advice from the Bureau of the Budget regarding the relationship of this proposed legislation to the program of the President.

Sincerely yours,

EARL L. BUTZ, *Acting Secretary.*

DEPARTMENT OF AGRICULTURE,
Washington, D. C., November 4, 1955.

HON. ALLEN J. ELLENDER,

Chairman, Committee on Agriculture and Forestry,
United States Senate.

DEAR SENATOR ELLENDER: On June 16, 1955, this Department reported, at the request of your committee, on S. 1688, 84th Congress, a bill to amend section 406 of the Federal Seed Act (7 U. S. C. 1596).

The report suggested that certain changes be made in the bill. It subsequently developed that the proposed changes were not acceptable in some respects to the seed trade regulated by the act, and discussions were had with members and counsel of your committee and the seed trade in an effort to draft language that would be agreeable to all concerned.

On September 14, 1955, Mr. Harker Stanton, counsel for your committee, inquired whether this Department would object to a bill that would amend the present provisions of section 406 of the act to read as follows:

"(a) Any person who knowingly, or as a result either of gross negligence or of a failure to make a reasonable effort to inform himself of the pertinent facts, violates any provision of this Act or the rules and regulations made and promulgated thereunder shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall pay a fine of not more than \$1,000, for the first offense, and upon conviction for each subsequent offense not more than \$2,000."

We understand that proposed subsection 406 (b) of the act as set forth in S. 1688 would be retained in the bill and the amendments of sections 204 and 412 of the act and a saving clause as proposed in our report on S. 1688 would be included in the bill. Under such circumstances this Department would not object to the proposed subsection 406 (a) as set forth above.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

TRUE D. MORSE, *Acting Secretary.*

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

FEDERAL SEED ACT OF 1939, AS AMENDED

* * * * *

SEC. 204. The use of a disclaimer or nonwarranty clause in any invoice, advertising, labeling, or written, printed, or graphic matter, pertaining to any seed shall not constitute a defense, or be used as a defense in any way, in any prosecution, or in any proceeding for confiscation of seeds, *or other proceeding* brought under the provisions of this Act, or the rules and regulations made and promulgated thereunder.

* * * * *

SEC. 406. (a) Any person who *[violates any provision of this Act or the rules and regulations made and promulgated thereunder]* *knowingly, or as a result either of gross negligence or of a failure to make a reasonable effort to inform himself of the pertinent facts, violates any provision of this Act or the rules and regulations made and promulgated thereunder* shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall pay a fine of not more than \$1,000, for the first offense, and upon conviction for each subsequent offense not more than \$2,000.

(b) *Any person who violates any provision of this Act or the rules and regulations made and promulgated thereunder shall forfeit to the United States a sum, not less than \$25 or more than \$500, for each such violation, which forfeiture shall be recoverable in a civil suit brought in the name of the United States.*

* * * * *

SEC. 412. The institution of any one of the proceedings provided for in sections 405, *406*, 409, 410, and 411, *[or criminal prosecution under section 406]* shall not bar institution of any of the others, *except that action shall not be instituted under both subsections 406 (a) and (b) for the same cause of action.* *[However, nothing]* *Nothing* in this Act shall be construed as requiring the Secretary of Agriculture to recommend prosecution *[or institution of]*, *or institution of civil penalty proceed-*

ings, libel proceedings, cease-and-desist proceedings, or proceedings for the enforcement of a cease-and-desist order, for minor violations of this Act or the rules and regulations made and promulgated thereunder whenever he believes that the public interest will be adequately served by suitable written notice or warning.

[S. 1688, 84th Cong., 2d sess.]

AN ACT To amend the Federal Seed Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 406 of the Federal Seed Act (7 U. S. C. 1956) is amended to read as follows:

"(a) Any person who knowingly, or as a result either of gross negligence or of a failure to make a reasonable effort to inform himself of the pertinent facts, violates any provision of this Act or the rules and regulations made and promulgated thereunder shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall pay a fine of not more than \$1,000, for the first offense, and upon conviction for each subsequent offense not more than \$2,000."

"(b) Any person who violates any provision of this Act or the rules and regulations made and promulgated thereunder shall forfeit to the United States a sum, not less than \$25 or more than \$500, for each such violation, which forfeiture shall be recoverable in a civil suit brought in the name of the United States."

SEC. 2. Section 204 of the Federal Seed Act (7 U. S. C. 1574) is amended to read as follows:

"SEC. 204. The use of a disclaimer or nonwarranty clause in any invoice, advertising, labeling, or written, printed, or graphic matter, pertaining to any seed shall not constitute a defense, or be used as a defense in any way, in any prosecution or other proceeding brought under the provisions of this Act, or the rules and regulations made and promulgated thereunder."

SEC. 3. Section 412 of the Federal Seed Act (7 U. S. C. 1602) is amended to read as follows:

"SEC. 412. The institution of any one of the proceedings provided for in sections 405, 406, 409, 410, and 411 shall not bar institution of any of the others, except that action shall not be instituted under both subsections 406 (a) and (b) for the same cause of action. Nothing in this Act shall be construed as requiring the Secretary of Agriculture to recommend prosecution, or institution of civil penalty proceedings, libel proceedings, cease-and-desist proceedings, or proceedings for the enforcement of a cease-and-desist order, for minor violations of this Act or the rules and regulations made and promulgated thereunder whenever he believes that the public interest will be adequately served by suitable written notice or warning."

SEC. 4. The amendments made by this Act shall be applicable only with respect to violations occurring after the enactment of this Act.

Passed the Senate March 26, 1956.

Attest:

FELTON M. JOHNSTON,
Secretary.

[H. R. 6201, 84th Cong., 1st sess.]

A BILL To amend section 406 of the Federal Seed Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 406 of the Federal Seed Act (7 U. S. C. 1596) is amended (1) by inserting "(a)" after the section number, (2) by inserting the word "knowingly" before the word "violates", and (3) by adding at the end thereof a new subsection as follows:

"(b) Any person who violates any provision of this Act or the rules and regulations made and promulgated thereunder shall forfeit to the United States a sum, not less than \$25 or more than \$500, for each such violation, which forfeiture shall be recoverable in a civil suit brought in the name of the United States."

[H. R. 6203, 84th Cong., 1st sess.]

A BILL To amend section 406 of the Federal Seed Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 406 of the Federal Seed Act (7 U. S. C. 1596) is amended (1) by inserting "(a)" after the section number, (2) by inserting the word "knowingly" before the word "violates", and (3) by adding at the end thereof a new subsection as follows:

(b) Any person who violates any provision of this Act or the rules and regulations made and promulgated thereunder shall forfeit to the United States a sum, not less than \$25 or more than \$500, for each such violation, which forfeiture shall be recoverable in a civil suit brought in the name of the United States."

[H. R. 6219, 84th Cong., 1st sess.]

A BILL To amend section 406 of the Federal Seed Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 406 of the Federal Seed Act (7 U. S. C. 1596) is amended (1) by inserting "(a)" after the section number; (2) by inserting the word "knowingly" before the word "violates", and (3) by adding at the end thereof a new subsection as follows:

"(b) Any person who violates any provision of this Act or the rules and regulations made and promulgated thereunder shall forfeit to the United States a sum, not less than \$25 nor more than \$500, for each such violation, which forfeiture shall be recoverable in a civil suit brought in the name of the United States."

Mr. GATHINGS. Mr. Rollin, we will be delighted to hear from you at this time, in support of this legislation.

Kindly give us your views and those of the Department with respect to the need for this legislation.

STATEMENT OF STANLEY F. ROLLIN, SEED MARKETING SPECIALIST, AGRICULTURAL MARKETING SERVICE, UNITED STATES DEPARTMENT OF AGRICULTURE

Mr. ROLLIN. This legislation was brought about, I believe, on the recommendation of the American Seed Trade Association, rather than the Department, by a recommendation for a change in section 406 of the Federal Seed Act to remove from there the possibility of being able to prosecute criminally for any violation of the Federal Seed Act.

And this Department has worked with representatives of the seed trade in finally arriving at a wording for that amendment which we feel would not weaken the Federal Seed Act but which would enable us to continue to operate as we have in the past.

The additional amendments to the act involved in sections 204 and 412, are brought about principally to bring them in line with the amendment which was made in section 406 to provide not only for criminal prosecution in cases involving knowledge or cases being prosecuted as the result of gross negligence, or cases in which the defendant did not make a reasonable effort to inform himself of pertinent facts, so that we feel that the act, as amended by the Senate bill, or which would be amended by the Senate bill, is consistent throughout with these additional amendments.

Other than that the Department has had no part in the recommendations for the passage of this bill except to go along with the desires of the seed trade to make these amendments.

Mr. GATHINGS. Could you give us any information as to the violations of the act? Is there a voluminous number of them? What caused the seed people to want to change it?

Mr. ROLLIN. Well, perhaps, they can answer that better than I could except from my discussions with them. I can tell you what my impression is of their thinking. I think that some of the members of the seed trade who have been prosecuted have felt that they did not intentionally violate the Federal Seed Act, through some happenstance in their operations within their corporations, perhaps some employee has failed to do something that he should have done.

As a result of that, the firm has been prosecuted. And they have felt that under certain circumstances where the firm or the individual, if he is an individual operating a firm, perhaps should not be held responsible criminally for such an action or such a failure on the part of an employee, perhaps, to do something which he should have done.

Mr. GATHINGS. The original act didn't carry the word "knowingly," is that right?

Mr. ROLLIN. That is right. That was deliberately left out. The new Federal Seed Act was passed in 1939, because it was found under the old Federal Seed Act which operated previously that it was impossible to win a case in court under the Seed Act and to be able to prove that the person knowingly did it.

Now, the reason perhaps for that is because the word "knowingly" is so broad that it was interpreted differently in different courts by different judges. That is one thing.

And for another thing, it is impossible to prove by surrounding events what was in the man's mind at the time this supposed crime was committed. So that the seed trade went along with the changes at that time to strengthen the Federal Seed Act by removing the word "knowingly" in this particular section, in order that we might be able to prosecute violators and strengthen the act thereby.

Mr. GATHINGS. That was in 1939?

Mr. ROLLIN. 1939, yes.

Mr. GATHINGS. Now, it is the intention of this bill, though, to provide a criminal penalty and also to provide a remedy whereby civil suits for damages may be instituted.

Mr. ROLLIN. That is right.

Mr. GATHINGS. In civil actions?

Mr. ROLLIN. Yes. There will be a section providing for criminal prosecution as there has been in the past except with provision that it shall have to be proven that it was done knowingly or as the result of gross negligence, or because of the failure to make a reasonable effort to inform themselves of the pertinent facts. I believe that is the wording.

Then if we do not proceed under that section—

Mr. GATHINGS. Let us get that line and page number where that language is. Would you point that out?

Mr. ROLLIN. In line 5 of Senate bill 1688.

Mr. GATHINGS. Page 1?

Mr. ROLLIN. Page 1.

Mr. HOEVEN. That is page 1.

Mr. ROLLIN. The wording provides that the person shall have—
knowingly, or as a result either of gross negligence or of a failure to make a reasonable effort to inform himself of the pertinent facts.

In order to be prosecuted criminally.

Mrs. KNUTSON. Maybe I have a little explanation here that I could give you.

The purpose of the bill is to amend one of the penalty provisions of the Federal Seed Act to remove the stigma of petty and unknown violations by reputable businessmen being classified as criminal violations.

The bill gives the Government an option which it does not now have to bring a civil action in addition to, or as an alternative to criminal action.

In civil actions the Government will not have to prove intent but in criminal actions to knowingly violate the provisions of the act, will be a factor to determine the violator's guilt.

Maybe that will help to explain that.

Mr. HOEVEN. I would like to know just how this bill differs from the basic law. You were starting to point that out. Just what changes have been made in S. 1688 which are not in the original act?

Mr. ROLLIN. The original act in the wording of section 406 does not have the words—

knowingly, or as the result either of gross negligence or of the failure to make reasonable effort to inform themselves of the pertinent facts.

It does not have that wording.

Mr. HOEVEN. That is the only change?

Mr. ROLLIN. No. Then the other changes which are made are for the purpose of bringing the act—other sections of the act in conformity with the change in this section.

In other words, this section 406 brings in a civil penalty section.

Mr. HOEVEN. Which was not in the original?

Mr. ROLLIN. Which was not in the original act. And, therefore, the other sections had to be changed accordingly to make the wording alike.

Mr. HOEVEN. Which are the new sections now?

Mr. ROLLIN. Section 204 has been amended and section 412 has been amended to bring them into conformity with the change made in section 406. It is merely to bring in the mention of the civil action in there so that it will be covered.

Mrs. KNUTSON. We have Dick Barry here, too, if you care to ask him any questions.

Mr. GATHINGS. We want everyone who is interested in this legislation to be given the privilege of testifying. I thought we might, though, see whether other members of the committee would like to interrogate the witnesses from the Department.

Mr. HOEVEN. Have there been a lot of prosecutions?

Mr. ROLLIN. I checked the publication of prosecutions yesterday and in the past—since 1940, which would be the last 15 years—up until the beginning of this fiscal year there were approximately 187 prosecutions, and against 132 dealers, I believe.

That is an average of approximately 10 or 12 a year in the last 15 years.

Mr. HOEVEN. Is it your impression that in those cases there were mitigating circumstances wherein the defendants should not have been prosecuted?

Mr. ROLLIN. No. In my opinion they should all have been prosecuted. And I think that in every case we have established the ele-

ment of knowledge, or failure to make an effort to inform themselves of the facts, or gross negligence.

So that administratively I think we have followed this so that this change in the law would be merely putting into the law what we had been doing administratively in the Department. That is our opinion.

Mr. GATHINGS. How many convictions were there on those cases?

Mr. ROLLIN. Those were almost all successfully prosecuted cases. Out of the 187 there were only 6 contests of which 3 were won by the Department and 3 by the defense.

Mr. HOEVEN. In how many of those cases were there deliberate violations where the man knowingly set out to commit a crime?

Mr. ROLLIN. I don't know, because it is difficult to analyze what he knowingly did.

Mr. HOEVEN. With the bill as amended, it will be practically impossible to prosecute anybody, to prove that one "knowingly" committed an offense.

Mr. ROLLIN. This has the other wording in there.

Mr. HOEVEN. "Or as the result."

Mr. ROLLIN. It covers the other cases which may not come under the word "knowingly."

Mr. HOEVEN. It says "any person who knowingly," "or," which is in the alternative. It does not say "and." Don't you have to prove that he "knowingly" violated the law?

Mr. KING. No.

Mr. ROLLIN. No, one or the other, the way we interpret it.

Mr. ABBITT. He did not know it but as the result of his negligence. That is my interpretation.

Mr. KING. If he pleads ignorance this still forces him to use a certain amount of precaution to make sure that his branding is correct.

Mr. HOEVEN. Who is presenting this legislation, the Department or the seed industry?

Mr. ROLLIN. The seed industry is responsible for having this introduced, I believe.

Mr. HOEVEN. I understand the industry is united and unanimous in asking for this type of legislation?

Mr. ROLLIN. They would have to speak on that.

Mr. HOEVEN. At least that is the impression I get.

Mr. ROLLIN. That is the impression of the Department.

Mr. KING. Who do you call the seed industry?

Mr. ROLLIN. Well, the American Seed Trade Association principally.

Mr. KING. Is that seed growers as distinguished from the wholesalers?

Mr. ROLLIN. I think it may involve some of all categories, seed handlers. Perhaps Mr. Heckendorn, who is secretary and is here might be able to answer that better than I can.

Mr. KING. I judge section 204 makes ineffective entirely the usual claim that he shall not be held responsible because of a disclaimer provision.

Mr. ROLLIN. That is still permitted with respect to the production of the seed. It is not permitted to use a disclaimer to disclaim what you are required to guarantee on the label in the labeling of seeds. That is the distinction.

In other words, if you say the germination is 90 percent, then you can't put a disclaimer in your labeling and say we do not guarantee the germination. But your disclaimer can have wording which will explain the responsibility for the production of the seed and tell you the facts. There are so many other factors which come into the production itself, including the weather, soil, and the conditions under which it is grown.

Mr. GATHINGS. Will you give your name and your title, please, and let us hear from you now?

**STATEMENT OF MRS. LOTUS C. THERKELSEN, GENERAL COUNSEL'S
OFFICE, UNITED STATES DEPARTMENT OF AGRICULTURE**

Mrs. THERKELSEN. I am from the Office of the General Counsel of the Department of Agriculture. I just wanted to comment that this section 204 in the present act as well as in the proposed amendment simply is intended to assure that you cannot use the disclaimer as a defense in any proceeding brought under this act. We do not go beyond that in this provision. We are simply saying that for purpose of this statute a disclaimer is not a defense.

Mr. GATHINGS. What new language is added to section 204?

Mrs. THERKELSEN. Under the present provision, the use of the disclaimer or nonwarranty clause does not constitute a defense in any prosecution or in any proceeding for confiscation of seed brought under the act or the regulations.

That provision which is now in the act, of course, does not make any reference to the new civil penalty proceeding which is being added by the amendment. So we wanted to make sure in this suggested amendment of section 204 that a disclaimer could not be used as a defense in this new civil penalty proceeding.

To accomplish that, we have suggested changing section 204 to read as set out in the bill passed by the Senate. You will notice that that bill says the use of the disclaimer and some other language here "shall not constitute defense in any prosecution or other proceeding." That "other proceeding" then would cover the new civil penalty actions.

It would also cover the cease-and-desist proceedings which are provided for in the present act, and reference to which was apparently omitted inadvertently from section 204 as it is in the present act.

We have taken care of that by the broad phrase "other proceedings" in the new bill.

Mr. GATHINGS. You are going to delete the language "or in any proceeding for confiscation of seed" and add "or other proceeding."

Mrs. THERKELSEN. Correct.

Mr. GATHINGS. Following the word "prosecution" you would add "or other proceeding" and delete the words "or in any proceeding for confiscation of seeds"?

Mrs. THERKELSEN. That is right.

Mr. GATHINGS. Let us get down to specific cases. You have grass seed that is put out by Scotts, and that grass seed says on the label that it contains 24.17 percent bluegrass, and it contains 16.4 percent clover, and right on down the line, so much inert matter, until you shall have a total of 100 percent.

If the Department determines that you have only about 75 to 80 percent of the percentage of clover seed in there, would that be a violation of this provision?

Mrs. THERKELSEN. Were you directing your question to me or to Mr. Rollin?

Mr. GATHINGS. You, I believe.

Mrs. THERKELSEN. In the first place, there are some tolerances provided in the statute and the regulations under which within a certain margin we do permit variation between the labeling and what is found in the seed. Isn't that right?

Mr. ROLLIN. That is right.

Mr. GATHINGS. You are from the General Counsel's Office and helped promulgate these regulations. Would you give us the actual regulation to which you refer? Do you have it with you?

Mrs. THERKELSEN. I don't have those with me. We didn't anticipate we would get into problems under the regulations. But if I may, I will go a little further than that because the tolerances, of course, would not take care of the total problem that you have raised.

If we had reason to believe that the difference in labeling from what was actually found on the official test of the seed was due to a failure of the seedsman to make proper tests, proper analyses, we would feel that under this act criminal prosecution would be proper.

If he failed to make a reasonable effort to properly analyze and test the seed to find out what was in it, then under the bill prosecution would seem to be in order.

Mr. GATHINGS. What you are trying to do is to protect the general public who buys the seed?

Mrs. THERKELSEN. That is it.

Mr. GATHINGS. If a man thinks he is getting only six-tenths of 1 percent of weed content in that particular package and it turns out he has 3 or 4 or more percent, in a case like that, what would be the Department's attitude?

Mrs. THERKELSEN. Well, we would want to find out why the variation between the labeling and what was actually in the seed. Under this new bill if we felt that the seedsman had tested the seed, found out that, let's say, it had 4 percent of a particular kind of seed in it, and he labeled it to show that it had 10 percent of that kind of seed, certainly there it would be a knowing violation because he knew what was in the seed, and he labeled it differently.

If he had run some tests and had done it so carelessly that what he did could be considered gross negligence, there again we would want to prosecute him.

If he just didn't care what was in the seed and took a label that appealed to him without having any reason to believe that it was correct, there again prosecution would be proper.

We, of course, will have some difficulties, the normal ones, I think, of proving just what happened in any particular case.

Mr. ABBITT. Will you yield right there? Who has the burden of proof to show that he made a reasonable effort to inform himself of the pertinent facts?

Mrs. THERKELSEN. It seems to me that the Government would because we will have to establish each element of the offense.

Mr. ABBITT. Who?

Mrs. THERKELSEN. The Government.

Mr. ABBITT. That would be my impression. Certainly, in a criminal action it would have to be established that he knowingly did it or gross negligence or failed to make reasonable effort to inform himself.

Mrs. THERKELSEN. Yes.

Mr. ABBITT. Can you call on X seedsman to show his records?

Mrs. THERKELSEN. Yes, we do have a right to look at the records.

Mr. ABBITT. So in making the investigation you would have available to your officials all of the records of the seedsman to show what he did or did not do?

Mrs. THERKELSEN. That is correct.

Mr. ABBITT. Then from that it would be up to the Government to determine whether or not proper steps were taken?

Mrs. THERKELSEN. Yes, that is correct.

Mr. ABBITT. If proper steps were not taken then the Government would have the facts that they could present to the court?

Mrs. THERKELSEN. Yes.

Mr. GATHINGS. You used the analysis of the seed distributor—what about that; do you make analyses in the Department?

Mrs. THERKELSEN. Yes; an official test is made.

Mr. ROLLIN. That is right. It might be well to outline to you the procedure that is followed. We do not have a staff of seed inspectors in the Department as such. We have a working agreement with all 48 States in which each State in the enforcement of its own State seed law samples seed and tests it on the market.

When they test the sample and find that it is in violation of their State seed law and that it has moved in interstate commerce, then they refer it to one of our field offices.

We have five separate field offices situated in different parts of the country. When that is furnished to our field office, they take the same sample and test it again and see whether they agree with the test which was made by the State seed laboratory.

If they agree, then they proceed to make an investigation. And they include in that investigation an inspection of the shippers' records, as a matter of course, to find out what the facts are.

After they have found all of the facts, they make their report and investigation to our office and then we decide what action is to be taken and recommend the action to the General Counsel's Office, or if we decide that prosecution is not warranted or seizure action is not warranted we are permitted under section 412 of the act to merely issue a warning notice to the shipper advising him of the apparent violation of the act, calling his attention to it so that he will be guided in the future in remedying any faulty procedures which he might have and thereby keep out of trouble under the section involving prosecution.

So that I would say that approximately 60 to 70 percent of the cases we handle involve the issuance of a warning letter or notice to the seedsman.

Mr. ABBITT. After all of these steps have been followed?

Mr. ROLLIN. That is right. In about 25 percent of the cases we don't take any action because we don't agree with the violation as reported to us by the State. And about 5 percent or less of the cases actually are forwarded for prosecution.

Mr. GATHINGS. Do you work harmoniously with the State agencies?

Mr. ROLLIN. Very harmoniously, I think. Of course, we have our differences of opinion on some of the cases, whether we should have recommended prosecution or not. I don't believe that is unusual because we all have differences of opinion, even within our own office. We have to have conferences to decide whether to go one direction or the other direction.

Mr. GATHINGS. These seed often cross State lines—practically every time?

Mr. ROLLIN. Well, that is true.

Mr. KING. Is there anything in the present law or this amendment which forces detailed branding?

Mr. ROLLIN. I don't follow what you mean.

Mr. KING. Is the seed dealer forced to mark the contents on the bag just "mixed seed," or is he required to brand it as to both variety and germination for each kind of seed in mixture.

Mr. ROLLIN. On agricultural seed, the labeling is detailed and is required. It requires the name of the kind of seed or the name of the kind of variety, or the name of the kind and type, and it includes information on the percentage of pure seed, the percentage of inert matter and percentage of weed seed and percentage of other agricultural seed, percentage of germination, percentage of hard seed if any, the date of the germination test, the lot number, the name and address of the shipper, or if the name and address of the shipper is not shown, he must show a code designation which the Department issues to identify him as the shipper, in addition to the name and address of the consignee.

Mr. KING. All agricultural seed?

Mr. ROLLIN. Yes.

Mr. KING. Including vegetable seeds?

Mr. ROLLIN. No. Now on vegetable seeds, he is required to show only the kind and variety of the seed and the name and address of the shipper, if the seed is above a certain standard of germination, which is set forth in the regulation under the act. If it is below that standard then he is required to show the percentage of germination, the percentage of hard seed if any, and the date of the germination test and in addition the words "below standard" in certain sized type.

There are some exemptions on that. For instance, if a person ships seed to a processor, for processing only, he does not have to label it in detail but only label it for processing only.

Or if it is in a bulk carload he does not have to label, obviously cannot label it except to put the labeling information on the invoice which accompanies the bulk shipment of seed.

Mr. HOEVEN. Is the label considered a form of a warranty or isn't it?

Mr. ROLLIN. I don't know. Maybe Mrs. Therkelsen can answer that legal question.

Mrs. THERKELSEN. There seems to be quite a variation in the cases in the different jurisdictions as to what the warranty responsibility of the seedsman actually is with respect to their labeling. They have attempted to protect themselves from civil liability by putting on disclaimers or nonwarranty clauses.

The courts have certainly varied in their holdings as to the effect of those nonwarranty clauses.

I would hesitate to get any more specific than that.

We have attempted here in section 204 to make sure that these disclaimers are not going to be a defense in prosecutions or other proceedings under this act. And we have omitted any reference in that section to the effect that a disclaimer or nonwarranty clause might have with regard to other civil proceedings for damages that somebody might bring against a seedsman.

There is, as is indicated in the report, a proposal to make some further amendments in the Seed Act which the Department is intending to sponsor or considering sponsoring, or recommending I should say, in which we propose to add a sentence to section 204 expressly stating that a disclaimer—perhaps I ought to give that—I don't have the exact language here—but the idea would be that we want to make it clear that the provisions of 204 with respect to disclaimers are strictly limited to proceedings under this act and do not affect civil damage proceedings that might be brought.

Mr. KING. Claim of damages on the part of the grower?

Mrs. THERKELSEN. That is right.

Mr. KING. The disclaimer is still effective there?

Mrs. THERKELSEN. Let us put it this way, this provision in the act does not preclude the use of the disclaimer in such a civil damage proceeding. Whether the court in a particular jurisdiction would give effect to such a disclaimer in a civil damage proceeding would depend on the law in the particular jurisdiction.

But at least, the intent of the proposed amendments of section 204 would be that nothing in this act will keep them from using a disclaimer in a civil damage proceeding.

Mr. KING. But with respect to the Government the disclaimer is in effect?

Mrs. THERKELSEN. That is correct. That is right.

Mr. GATHINGS. This bill was taken up by the full committee last week and studied carefully. Some of the members raised questions as to section 412, more particularly in line 20 of the Senate bill—

except that action shall not be instituted under both subsection 406 (a) and (b) for the same cause of action.

That would limit the applicability of the act to only one of the subsections. What is your explanation of that, Mrs. Therkelsen?

Mrs. THERKELSEN. It was just our feeling that if we proceeded against somebody criminally perhaps it would be unduly harsh to proceed against him civilly also because of the same cause of action. I do not think we have strong feelings about that. It is my impression that if it is desired to make both forms of proceeding available with respect to one offense that certainly the Government would not object. It would strengthen our position.

We have not, of course, cleared with all of the officials in the Department of Agriculture who passed on the original report recommending the inclusion of this language to find out what they would think about deleting it. But it is my personal impression that there would be no objection to removing this exception so that we could proceed under both the criminal and the civil penalty proceedings provision with respect to the same offense—if that is the desire of all concerned.

Mr. GATHINGS. You would have to make a choice between the two.

Mrs. THERKELSEN. Under the present law——

Mr. GATHINGS. You would have to choose whether you would proceed civilly or criminally?

Mrs. THERKELSEN. Under the proposed language, that is right.

Mr. HOEVEN. So far as the Government is concerned?

Mrs. THERKELSEN. Correct.

Mr. HOEVEN. That would not preclude the buyer from a separate civil action?

Mrs. THERKELSEN. No, indeed. It would have no effect on the buyers right.

Mr. ABBITT. This simply applies to (a) and (b)?

Mr. GATHINGS. That is correct. That was a point raised in the full committee last week, and I would like to get that matter cleared up.

Mr. ABBITT. The only objection I can possibly see to it, that is, if you started under (b) and found that the violation was more flagrant than you realized, then of course one has been instituted and the Government could not institute it under (a).

But there is very little difference in the penalties in any of them; \$500 for the first.

Mr. GATHINGS. Are there any more questions of the Department witnesses? I wonder if you could make available to us for the record at this point all of your regulations that are pertinent to this particular issue.

Mr. ROLLIN. Those which relate only to these sections?

Mr. GATHINGS. Yes, (a) and (b).

Mrs. THERKELSEN. I suppose that the easiest way to do it would be for us to take a copy of our regulations and simply mark the parts that have some bearing on this and furnish that copy to you.

Mr. LOVRE. If I can make just one brief statement.

Mr. GATHINGS. Yes, gladly.

Mr. LOVRE. Mr. Chairman, I am coauthor with our esteemed colleague, Mrs. Knutson, on the introduction of this legislation, and I do want to state that I think that legislation of the type that we have introduced, I do not know how it compares with the Senate bill but I think the type we have introduced certainly it is necessary not only in the interests of the public but also the trade.

We do have Dick Barry who is from our State of North Dakota and he represents, I believe, the American Seed Trade Association, and he is very familiar with all of the details of the bill and the reasons leading up to it, so I would be very happy if the chairman will call him for a thorough explanation of this legislation.

Mr. GATHINGS. Mighty fine. If you will come around and take the chair.

Please state your name for the record.

STATEMENT OF RICHARD H. BARRY, REPRESENTING AMERICAN SEED TRADE ASSOCIATION, FARGO, N. DAK.

Mr. BARRY. And I represent the American Seed Trade Association, Chicago.

Mr. KING. What is the association composed of?

Mr. BARRY. The association consists of various segments of the marketing of seed in the United States. It is a nationwide organization. When I heard late Friday night that this subcommittee was going to hold this meeting, I attempted to get hold of the officials of the American Seed Trade and I was unable to do it until yesterday.

Now I have with me the executive secretary of the American Seed Trade Association, Mr. William Heckendorn. I was unable to arrange for the general counsel to be here to particularly comment on one point that was raised on the Government having to choose between two types of actions.

Mr. GATHINGS. Do you take it that the seed interests have had ample notice? Do you think that everyone that is interested in this legislation has been advised that this meeting was to be held today?

Mr. BARRY. I would like to say it a little differently than that. Prior to this meeting we have contacted and I will list all of the organizations in the United States that we have contacted on this point.

With your permission, if I could start chronologically, about 18 months ago, I think I can answer all of your questions about interested parties to this bill.

Mr. GATHINGS. Yes. We want to be sure that everyone has been given an opportunity to file a statement or to appear.

Mr. BARRY. All right. Commencing in the fall of 1954 I commenced to assemble the pertinent facts on this proposed amendment and I would like to give at this time a 2-year summary of the legal actions, the criminal actions that were brought under the old act.

And I might point out in the 2-year period in recent years, from July 1, 1952, through June 30, 1954, there is approximately 70. So they have been working up. They average about 30 to 35 legal criminal actions per year.

Then I would also like to point out——

Mr. GATHINGS. Does geography have anything to do with that? What sections of the country?

Mr. BARRY. That is nationwide. This is taken from the records of the United States Department of Agriculture.

I would like to point out on here that I would like to take a few actions and mention that. Here is the first, starting after July 1, 1952. It involved 25 bags of seed, when the court rendered a decision the fine was \$50. But that was a criminal action. And the stigma of a criminal action against a company that may have been in business for 20 or 30 years does a lot of damage.

There is this initial news release that so and so was indicted for violating a Federal act. In this particular case it involved 25 bags and the court decided on a judgment of \$50.

Mr. GATHINGS. What did the violation consist of? Do you have that information?

Mr. BARRY. It would have to be normally for an analysis of the seed not agreeing with a description on the tag that was described here a little while ago.

Out of these cases 85 percent of the people that were charged with a criminal violation ended up with fines below \$500. There are many, many \$50, \$25 fines.

It was that category of cases that we tried to get at to try to get them over into some situation where anybody that violated it was restrained but not quite as severely as being charged as a criminal as though he was engaged in white slavery or holding up banks, and so forth. That was what prompted the civil procedure.

Starting then in the fall we knew we had these various segments of the United States that would be interested.

We had the various farm organizations, the Farm Bureau, the Farmers Union, the Grange, and so forth. We knew we had each of the 48 State seed departments that would be interested in this legislation because they feed the cases in here for prosecution.

We knew we had the crop-improvement associations. We also knew, of course, that we had the National Association of Official Seed

Analyses and we, of course, had the United States Department of Agriculture.

So we presented our proposal to these various groups over a period of many months, and many, many meetings, many hours of discussion. And out of it all came the bill, S. 1688, in its present form as amended.

Mr. GATHINGS. Is this S. 1688 similar to the two bills that are introduced by Mrs. Knutson and Mr. Lovre?

Mr. BARRY. Yes, sir. Yes; in substance. The exceptions are these. The bills as introduced by Mrs. Knutson and Mr. Lovre simply use the word "knowingly" that had been absent in the old bill for a criminal charge.

The Department of Agriculture said they would like to have the word "knowingly" defined which in itself was quite a project, as you lawyers will know.

Finally, after several sessions we had a meeting of minds by adding after "knowingly"—

or as the result either of gross negligence or of the failure to make a reasonable effort to inform himself of the pertinent facts.

Then, as Mrs. Therkelsen has mentioned, some other amendments were required to make clear this change.

Mr. ABBITT. In other words, the House bills were substantially as the Senate bill originally introduced?

Mr. BARRY. Yes.

Mr. ABBITT. This just adds amendments suggested by the Department as the result of your conference, et cetera?

Mr. BARRY. Yes.

Mr. ABBITT. I just wanted to get that in the record.

Mr. HOEVEN. Then the trade is in agreement on the changes that have been made?

Mr. BARRY. Yes, sir, and beyond that, the various organizations, we believe it can now be said to be in agreement, United States Department of Agriculture, the Association of American Seed Control Officials—that is an organization made up of the 48 State seed inspectors—the International Crop Improvement Association, the Association of Official Seed Analyses, and then the American Seed Trade Association, they are all in agreement on this wording as it is.

Mr. KING. In the Senate bill?

Mr. BARRY. Yes, sir.

Mr. KING. You suggest the substitution of the Senate bill for the two House bills?

Mr. BARRY. If that is agreeable, yes, sir. And one reason for it, it has been a tremendous job to get so many different groups to agree on one thing and now we have gotten that far we hesitate to go back and try to change it again.

Mr. HOEVEN. What is the position of the farm organizations on this bill?

Mr. BARRY. It is satisfactory to them.

Mr. HOEVEN. They are in accord?

Mr. BARRY. Yes.

Mr. GATHINGS. Did you appear before the Senate committee?

Mr. BARRY. No, sir. When all of this was explained, most of the spadework was done in the staff of the Agriculture Committee of the Senate. I believe that is correct.

Mrs. THERKELSEN. That is my understanding.

Mr. BARRY. This discussion back and forth—some of the staff, I believe, report here that all of the various groups have had a meeting of minds.

Incidentally, I have with me the signed letter from the president of the organization that represents the 48 States in their seed departments in which they by resolution endorse this bill.

Mr. HOEVEN. Is there any opposition to the bill that you know of?

Mr. BARRY. No, sir.

Mr. ABBITT. It looks to me like in (a) you have covered about every violation there could be. First you say if he knowingly does, then you say if he is negligent in doing it, then you say if he does not adequately inform himself he is still guilty.

Mr. BARRY. Yes, sir.

Mr. ABBITT. Can you think of anything else that ought to be added?

Mr. BARRY. No, sir.

Mr. KING. Is this list of cases mixed pretty generally among the reputable as well as the disreputable seed dealers?

Mr. BARRY. No. I believe the reputables are in the minority.

Mr. HOEVEN. I think you should have answered that by saying there are no disreputable seed dealers. [Laughter.]

Mr. GATHINGS. I wonder if you would make that a part of the record?

Mr. KING. Is this not already in the record?

Mr. BARRY. Not this summary; no, sir.

Mr. KING. I would suggest that it be made a part of the record.

Mr. GATHINGS. Without objection that will be done.

(The tabulation is as follows:)

Criminal prosecutions and seizures under the Federal Seed Act, July 1, 1952, to June 30, 1954

Case No.	Number of counts	Number of bags	Fines under \$500	Fines \$500 and over	Other court action
308	1	25	\$50		
309	2	18	50		
310	1	25	375		
311	2	6	50		
312	Seizure	2			Court ordered seed destroyed.
313	1	100	250		
314	4	645		\$2, 000	
315	20	2, 170		2, 000	
316	2	40	100		
317	Seizure	10			Court ordered seed relabeled.
318	1	140	100		
319	1	19	300		
320	1	11	50		
321	1	6	75		
322	Seizure	110			Court ordered seed ground into feed.
323	7	1, 005		2, 400	
324	49			5, 000	
325	Seizure	29			Court ordered to be used as animal feed.
326	Seizure	260			Court ordered seed destroyed.
327	Seizure	18			Do.
328	Seizure	19			Do.
329	Seizure	42			Court ordered ground into feed..
330	1	20	250		
331	1	4	25		
332	1	15	300		
333	1	29	150		
334	8		25		
335	Seizure	68			Court ordered seed relabeled.
336	1	18	50		
337	1	66	400		
338	1	252	50		
339	5			500	
340	Seizure	500			Court ordered ground into feed.
341	Seizure	174			Court ordered seed destroyed.
342	Seizure	53			Court ordered seed relabeled.
343	Seizure	8			Court ordered seed destroyed.
344	Seizure	64			Court ordered seed relabeled.
345	Seizure	15			Do.
346	Seizure	39			Do.
347	Seizure	20			Court ordered seed destroyed.
348	Seizure	8			Court ordered ground into feed.
349	Seizure	11			Court ordered seed destroyed.
350	Seizure	15			Do.
351	Seizure	20			Court ordered to be used for feed.
352	Seizure	9			Do.
353	1	4	50		
354	1	195		500	
355	2	10	100		
356	1	10	50		
357	7			700	
358	Seizure	10			Do.
359	Seizure	15			Court ordered seed destroyed.
360	Seizure	10			Court ordered to be used as feed.
361	9	1	25		
362	13			8, 000	
363	5			600	
364	4	15	30		
365	4	182	250		
366	1	600	0		Court ordered 6-month probation.
367	Seizure	15			Court ordered seed relabeled.
368	Seizure	500			Court ordered processed into oil.
369	1	150	251		
370	3	85	250		Court ordered 2 years probation.
371	3	95	100		
372	Seizure	19			Court ordered seed destroyed.
373	Seizure	8			Do.
374	Seizure	161			Court ordered ground into feed.
375	Seizure	5			Court ordered to be used for feed.
376	1	23	100		

Mr. KING. To get at the justice of this, I would like to ask again under the operation of the law in the past have you found some of the most reputable seed houses in trouble?

Mr. BARRY. Periodically; yes, sir.

Mr. KING. And they are represented among these cases?

Mr. BARRY. Yes.

Mr. KING. So that you could assume that there was no real intent but perhaps some negligence.

Mr. BARRY. The problem, sir, is that the rebuttal never catches up with that initial blast in the newspaper that a reputable firm has been indicted for violating a criminal section of the law.

It gets into the Dun & Bradstreet reports and it raises a lot of questions that are a problem for a reputable company.

Mr. KING. You would argue then when this law is passed that the Department should select a civil action rather than the criminal action in a great many cases?

Mr. BARRY. Well, I would say that if the facts—if the company had been reputable up to a point and then knowingly there was a change in management, I don't think they should have that out; no, sir.

But with a company that may have several hundred employees and the bigger they are and the more seed they ship and therefore the possibility of discrepancy between the tag in a given sample.

Mr. KING. It should depend upon the circumstances then?

Mr. BARRY. Yes. In the sample, you see, say, there is a carload in the shipment, the sample does not embrace every single grain in the whole carload. So it depends on where the sample is taken, depends on how many days the car is shaken along the railroad and how it settled and things of that kind.

Mr. KING. There is nothing in this legislation which imposes additional requirements with respect to varieties and strains—no new impositions upon the seed dealer in marketing his product, it simply means that the old regulations must be complied with.

Mr. BARRY. That is correct.

Mr. KING. There are no additional specifications?

Mr. BARRY. No, sir.

Mr. HOEVEN. Are you going to submit that letter for the record?

Mr. BARRY. Would you like to have the letter from the head of the 48 State seed departments and a copy of the resolution in your report?

Mr. GATHINGS. Without objection that will go in the record at this point.

(The letter dated December 21, 1955, is as follows:)

STATE OF MINNESOTA,
DEPARTMENT OF AGRICULTURE, DAIRY, AND FOOD,
DIVISION OF PLANT INDUSTRY,
St. Paul, December 21, 1955.

Mr. R. H. BARRY,
President, Barry & Co., Inc.,
Fargo, N. Dak.

Dear Mr. BARRY: In compliance with your request in our telephone conversation of November 29, I am advising you of the action taken on S. 1688 and H. R. 6203 by the Association of American Seed Control Officials at their triennial conference held at Kansas City, Mo., on December 6 to 8, inclusive. These are identical bills which have been introduced in the Senate and House of Representatives of Congress to amend section 406 of the Federal Seed Act and which have been sponsored by the American Seed Trade Association, which you represent.

The Association of American Seed Control Officials, under date of December 8, 1955, at their regular business meeting, recommended that paragraph (a) of S. 1688 and H. R. 6203 be changed to read as follows and that these bills be recommended for passage by Congress after such changes have been made:

"Sec. 406. (a) Any person who knowingly, or as a result either of gross negligence or of a failure to make a reasonable effort to inform himself of the pertinent facts, violates any provision of this Act or the rules and regulations made and promulgated thereunder shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall pay a fine of not more than \$1,000, for the first offense, and upon conviction for each subsequent offense not more than \$2,000."

There would be no change in paragraph (b) of section 406 of these bills.

It is our understanding that the USDA has approved of the above changes in these bills. It is also our understanding that the American Seed Trade Association, which you represent, has also concurred in the above wording of these bills.

We have been informed that the USDA plans to submit to Congress proposed amendments to the Federal Seed Act similar to those contained in H. R. 5734 and S. 1943. Our association reaffirmed the principles involved in these bills and would appreciate the cooperation of your association in this legislation.

We have written letters to Senators Thye and Humphrey and Ellender of the Senate Agricultural Committee and Representatives Coya Knutson and August H. Andresen of Minnesota, who are members of the House committee on Agriculture, informing them on our position as outlined above on S. 1688 and H. R. 6203. We trust that this clarifies our position in this matter so that you can inform your members accordingly.

Seasons greetings.

Yours very truly,

O. A. ULVIN.

Chairman of the Legislative Committee of the Association of American Seed Control Officials.

Mr. GATHINGS. Is there any further testimony?

Mr. BARRY. May I volunteer a point in case it is not settled? Because of the many groups we had to coordinate, if possible, if we could leave this as is, I think it would be helpful. And if I could comment on the two causes of action and illustrate it this way:

Suppose there are four carloads going down the track. And a sample is taken of each carload. And the Department should decide that the first carload was of a nature where a civil action is appropriate. So they bring a civil action. And then with the publicity that might develop, they should obtain additional information that would change entirely the original concept of the guilt of this company.

I believe you have a cause of action against each of those other shipments, have you not, if you want to go ahead criminally?

Mrs. THERKELSEN. Do I understand that they were all shipped from the same point of origin to the same destination at the same time?

Mr. BARRY. Let me word it just a little bit differently. If someone is operating in a fashion where a criminal action should be brought against them you will have several causes of action, will you not, normally?

Mrs. THERKELSEN. If there are several shipments involved.

Mr. BARRY. In other words, they could bring a civil action on one shipment and criminal action on the next shipment. Does that clear up that point?

Mr. ABBITT. I see the point.

Mr. GATHINGS. Yes, it does.

Mr. BARRY. If I could offer that.

Mr. GATHINGS. But not the same car?

Mr. BARRY. That is correct.

Unless there are some questions, that is it.

Mr. GATHINGS. Are there any further questions?

Mr. ABBITT. I think he made a very satisfactory explanation.

Mr. GATHINGS. I wondered if the Secretary should like to make a statement.

We will be delighted to hear from you.

**STATEMENT OF WILLIAM HECKENDORN, EXECUTIVE SECRETARY,
AMERICAN SEED TRADE ASSOCIATION, CHICAGO, ILL.**

Mr. HECKENDORN. My name is William Heckendorn. I am the executive secretary of the American Seed Trade Association, with offices at 30 North La Salle Street, Chicago, Ill.

The American Seed Trade Association is an organization of about 800 members. Among those 800 members are 38 State and regional associations which have several hundred members.

The functions of the American Seed Trade Association are no different than those of any other trade association. They represent their members.

We have in our organization at both State and national level growers who are essentially farmers. We have other people that we call assemblers, who take the product from the farmer. We have others that we call conditioners who take the seed from the grower and the assembler, and bring it together and condition it so that it can be sold back to the farmer. We are interested in the farmer both as a producer and a consumer. We are sort of a middleman so to speak.

The problem that we have, of course, is bringing together from all sections of the United States small lots of seed, seed growing is becoming more of a specialized business today than it was years ago. Most of our farm seeds years ago were the results of more or less a byproduct of the farm. When the farmer had harvested as much alfalfa as he thought he would need he would let the last crop mature for seed. And he would produce a small volume of seed which would go to some assembler some place and later it would go to some larger conditioner where they would analyze this seed and blend it together into as uniform lots as possible.

When we get down to the point of miscibility of seeds we have a different situation than we do on most products that we blend according to chemical compound or formula. Seeds are not miscible. If we had two pitchers of water here on the table, and we poured out a glass out of one and a glass of water out of the other and poured the two together, we would have a completely miscible product.

But if we had two bags of seed here on the table, and we poured out a glassful of seed out of one and one out of the other and then poured them together, we would have to do considerable mixing before we would get anything that would resemble a uniform blend.

I mention that because it is a big problem in the seed industry. The Department of Agriculture fully realizes it. Every official that has anything to do with seed fully realizes it. That is the reason we have the tolerances.

A good, well-regulated seed house will have its own laboratory, and each one of these lots of seeds will be very carefully analyzed, and they will be blended according to the analysis.

However, it is not at all improbable that you could draw a sample from that lot and I could draw a sample from that lot and Mr. Rollin could draw a sample from that lot and we would find variations, because they are not absolutely miscible.

So they have developed this serious question of tolerances. The tolerances are not something that can be taken advantage of by the shipper. It is a means by which laboratories will reconcile differences to determine whether or not the seedsman who entered the seed in

commerce has been reasonably honest in trying to do the job according to the definition of the Federal Seed Act.

If they pick up a sample in commerce and it is sent to the Department of Agriculture and they make an analysis of it and they find that the information on the label is different than the information they find from their analysis, then they have the opportunity—perhaps they have already done it before they have checked the sample in their own laboratory. They have inspected the records of the seedsmen. They have authority to go in and inspect our records at any time, any place. And by having done that they know whether or not the information placed on the container by the shipper is supported by his own records.

If they are supported by his own record, then they apply the system of tolerances and if it is outside of tolerances, then, of course, there is still a violation, because that sometimes indicates that the shipper took advantage of the tolerances when he labeled the seed in the first place, not as true.

But because of the millions of transactions that take place in the seed industry, ranging as Mr. Barry pointed out here from a very few bags up into hundreds of bags, and the problem we have of getting an absolutely uniform blend, makes it difficult business to be in, to also be sure that you are going to be in compliance with the Federal Seed Act.

You can be just as honest as the day is long and still you——

Mr. GATHINGS. How far can you be off?

Mr. HECKENDORN. You wouldn't be off very, very far but there are other hazards that enter into the picture and I wanted to comment on that.

Any one of us could conduct a business and be just as careful as possible, and know the conditions of the product when it leaves our hands, but we have no control over the product after it once leaves our hands. But our labeling is still on the container, and as it enters channels of commerce, it can come in contact with atmospheric conditions, extremely high heat and other conditions that will change it, especially the germination characteristics of seed.

Mr. GATHINGS. Are you required to put what the germination characteristic of each particular variety of seed that goes into the mixture?

Mr. HECKENDORN. No; that depends on whether or not the component is 5 percent or more. If a mixture is made up of several component parts and each component part is in excess of 5 percent, then we are obliged to state the germination. Is that not true?

Mr. ROLLIN. Yes.

Mr. HECKENDORN. I wanted to get back just for a moment to the example that you raised with Mr. Scott. Mr. Scott is one of our very fine members. And they have a particular problem with respect to germination, because their grass seed—primarily distributors of grass seed for lawns and golf courses and park improvement places and things of that nature, but because it is in the package form and anyone of you can go into a hardware store or a lot of other stores and you will find this seed just stored in all kinds of conditions. Perhaps you will find a window full of it set out there making a lovely display, and the sun beating down on it, just the same as if it was sitting on the hot radiator.

I only mention that because there are things beyond the seedsman's control. Just recently we presented some testimony before the weights and measures conference here in Washington, D. C. And through experiments that we had run, we have found that we can increase the weight of seed, it does not pertain to the germination of the seed but we can also materially reduce the weight of seed, simply because of exposing it to high temperatures, and when we expose to the extremely high temperatures then, of course, we do impair the germination as well.

Mr. GATHINGS. The weight would be a violation if you would lose a few ounces in a package?

Mr. HECKENDORN. That is our problem over on the other side here with the Department of Commerce. This is not the only problem that we have. We are getting along very nicely with all of these governmental officials. I think they are very broadminded people in the administration of the Federal Seed Act.

I have heard them say on different occasions they wished there were some other means by which they could proceed rather than to have to bring all of these actions as criminal actions, because in their own mind I am not speaking for the Department, I am merely repeating things that have been told me by officials of the Department. In their own mind, they feel as though that some of these cases should be brought, not as a criminal action but as a disciplinary action. We are all for that. We do believe that there has got to be discipline in the seed trade.

Mr. GATHINGS. The testimony here was from Mr. Rollin to the effect that in so many instances, why the Department gives the dealer a warning.

Mr. HECKENDORN. That is right. Those warnings have been issued, and are continued to be issued so far as I know. I presume even after this, if this does become law, that they will still have that twilight zone in there where they do not—whether they want to proceed or merely want to caution the shipper. That is possibly on the fringe of a violation. That is good administration because you can see very well that when you are handling millions of small transactions and you do have a lot of people involved, and all of these variables that come into the picture, that they have a problem in deciding even now whether or not there is an intentional violation, a knowing violation or if it might be some error somewhere along the line.

Then we do get into other problems in the seed industry that are not usual but they are more of the unusual nature. I recall a couple of years ago when we were short on soybeans. We had a backward spring. And some farmers had not been able to plant corn and they wanted to get something in their ground and they made a run on soybeans.

Well, soybeans were not available in quantity. As the result they were demanding soybeans and it takes time as Mr. Rollin could tell you to run a germination test on soybeans. So when you go out and begin scouring the country for soybeans and the farmers are hollering for soybeans because they want to plant them now, you may not have a chance to complete all of the record that should be completed to comply with the Labeling Act.

Mr. GATHINGS. We have that same picture right now in the mid-south area of the country with respect to soybeans. There is a variety, the Ogden that grows well in a particular area and yet at the same time the farmer is running into trouble with the cross section, the color of the cross section of that soybean in some instances.

Some of the farmers there want to go to another variety. They want to go to a Lee or some other soybean in order to meet that objection.

Mr. HECKENDORN. That is constantly coming up in our agriculture and I think perhaps it is a good thing because the seeds that we are planting today, maybe it is too good, but nevertheless the seed that we are planting today is of a superior variety than the seed that we planted 20 years ago and the thing that you just mentioned is what is bringing it about. Our farmers are better educated.

Those things do come about. And because of the progress that we are making through plant breeders, and the scientific combination of various genes or germ plasma, I guess is the proper word, we are bringing out constantly new varieties. They are not being brought out so much by the seed industry as a whole as it is by the plant breeders of the various agricultural colleges throughout the county and they become available first in a very few ounces.

You could go back—we are somewhat off of the bill I am afraid—but you can go back and take a range of alfalfa. I remember when there were only a few pounds of ranger alfalfa available but because of the handling and development we harvested a crop pretty close to 50 million pounds last year of that alfalfa. It was way up in the millions of pounds.

But these things are handled and organized and they flow through an industry from the point of production through the assembling, the conditioning, and on out to the farmers where they are needed.

So all through that category we are under not only the control of the Federal Seed Act, which is a labeling act which requires us to tell the truth about the product that we ship, but we are also controlled by 48 State seed laws.

Any State into which we ship seed we are not only obliged to be bound by the Federal Seed Act because it applies to interstate commerce but when it comes to the State level we then are bound by the State seed law which is all right. We have no problem there. We are getting along. But our problems arise when we find ourselves being prosecuted for a criminal action which we don't really believe was a criminal action in our own mind. We originated this bill.

Mr. GATHINGS. They do not bring borderline cases, do they?

Mr. HECKENDORN. I don't think they do. I think they have pretty good evidence before they start a case. I think they have been very reasonable in it. I think it will be much easier for the Department of Agriculture to administer the seed law with this amendment than it has been.

And I have told our own people—we must wait to see whether I am right or not—but I have told my own people that I believe that with this amendment there would be more prosecutions under the Federal Seed Act than before.

There will be that twilight zone there of causes that they don't feel as though they should proceed on a criminal basis and have not in the past, but perhaps will find that disciplinary action under

406 (b), the fine and forfeiture will be desirable. I feel that that is coming. I have warned our people to that effect when we presented this legislation, because generally industry is looking for less regulation instead of more.

I believe one other point that was brought up here is the use of the limitation of liability clause on our seed shipments.

As Mrs. Therkelsen has pointed out, we have never intended that clause to apply to offset the requirements of the Federal Seed Act. We know that it does not apply there. We have never intended that it apply there.

You cannot buy a package of film, kodak film, if you read the label you will find on their notice to the buyer which is a limitation of liability clause. You cannot buy a package of insecticide or fungicide or anything else that you use on your lawn, but what if you read the label carefully, you will find on there a limitation of liability clause, whether used in accordance with our instructions or not, we will not be responsible for the results.

It seems like negative selling but you do not know and there is no way that you can control the hazards and vagaries of nature.

So you can have the best seed in the world and take it out here and give it to a farmer and he will plant it, and he may not get a crop. There is no guaranty in that labeling he will get a crop. That is absolutely impossible.

Mr. GATHINGS. On the label I have noticed that an expensive seed is not expected to come up as soon as a cheaper type of seed.

Mr. HECKENDORN. I don't follow you on that. Are you thinking about the differences between quick germination and what we call hard seed?

Mr. GATHINGS. On the label that I read last week it was stated that you should not expect the seed in the package to come up within 2 weeks, maybe longer.

Mr. HECKENDORN. It might have been a certain type of seed which would have been true.

Mr. ROLLIN. I believe you have reference to Merion, Kentucky, bluegrass.

Mr. GATHINGS. Probably so.

Mr. HECKENDORN. Germination of seed will germinate from 7 days to 21 days in the laboratory. The same thing will be true, perhaps—conditions can happen, planting the seed in the ground that would vary from conditions in a laboratory.

But all seeds do not germinate within the same length of time. Eggs don't all hatch, turkey and duck eggs and so on.

Mr. GATHINGS. I found that out.

Mr. HECKENDORN. I have one more point that I would like to cover. That is this one:

I presume that in the course of a year there is at least \$750 million involved in financing a seed crop. The capital that finances the movement of a seed crop is largely the capital of banks, that are loans on, commodity loans to various seedsmen. They are very sensitive to publicity that a large seedsman might get as a result of a criminal action brought against him.

So that is another reason why we are hopeful that we can get an amendment here that will permit the Department of Agriculture to really go after the crook. There are crooks in every business. I am

not one to sit here and say there are not crooks in the seed business, too, because we have a disciplinary clause in our bylaws that permit us to take action against seedsmen who conduct an unethical business.

And I can tell you today that there are some who have been members of the American Seed Trade Association that are no longer members. We do what we can to discipline that ourselves.

But we are not a policeman. We do not have police authority. We have to look to the people that do have the police authority which is the Federal Seed Act and the State seed laws to do the job of actually going out and getting the violator and treating him with the type of penalty which his crime deserves.

It is my feeling under the Federal Seed Act if this amendment is adopted, I understand there have been some fines levied by judges as low as 1 cent. Isn't that right?

Mr. ROLLIN. That is right.

Mr. HECKENDORN. That is a farce to bring a case before a judge and have him turn around and levy only a fine of 1 cent. He has some reservation in his own mind of the case.

So I am saying today that I believe when a criminal action is brought in the future and the Department has proven either knowingly or gross negligence, or the seedsman has just absolutely not tried to follow the Seed Act, that his fine is going to be higher than it has been in the past.

Mr. GATHINGS. Is it your view that there will be more prosecutions?

Mr. HECKENDORN. I have the feeling that there will be in the future because we have two ways that we can go.

Mr. HOEVEN. I want to compliment you on your fine statement and upon the attitude you have taken. You want to police your own industry and that is most commendable.

Mr. HECKENDORN. We are trying to do it.

Mr. GATHINGS. And it is enlightening to know that your bylaws provide expulsion of members for violating the law.

Are there any further questions?

Mr. HECKENDORN. Thank you very much.

Mr. GATHINGS. Thank you very much, Mr. Heckendorn.

Does anyone know of anything else that ought to go in the record? We want to be able to answer the questions that are asked by the full committee as well as on the floor of the House.

The regulations are to go in.

Mrs. THERKELSEN. We will see that you get those.

Mr. GATHINGS. Here is a telegram received by me under date of June 11, from Bryan E. Hearn, Delta Seed Corp., West Memphis office, in favor of this legislation.

And another telegram under date of June 11, from Marion Hartz, director, Southern Seedsman Association, Jacob Hartz, Inc., Stuttgart, Ark., in favor of this legislation.

Mr. HOEVEN. I ask unanimous consent that other like telegrams may be inserted at this point in the record, if members of the subcommittee desire to do so.

Mr. GATHINGS. Without objection that will be done.

(Telegrams referred to above follow:)

STUTTGART, ARK., *June 11, 1956.*

HON. E. C. GATHINGS,
House Office Building, Washington, D. C.:

Urge your support S. 1688 reference Federal Seed Act. This legislation much needed for protection of seed industry.

Regards.

MARION HARTZ,
Director, Southern Seedsman Association, Jacob Hartz Seed Co., Inc.

WEST MEMPHIS, ARK., *June 11, 1956.*

HON. E. C. GATHINGS,
House of Representatives, Washington, D. C.:

We urge your support of Senate bill 1688 to amend section 406 of Federal Seed Act. Has approval United States Department of Agriculture, State control officials, International Crop Improvement Association, Official Seed Analysts Association, National Farmers Association, and American Seed Trade Association.

Thanks.

BRYAN E. HEARN, *Delta Seed Corp.*

Mr. ABBITT. I would like the record to show the Virginia Seed Association is in favor of the legislation in S. 1688 in its present form.

Mr. GATHINGS. We will go into executive session at this time.

(Whereupon, at 11:30 a. m., the committee adjourned to go into executive session.)

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S. 1688

IN THE SENATE OF THE UNITED STATES

APRIL 14, 1955

Mr. MUNDT (for himself, Mr. EASTLAND, Mr. THYE, Mr. HUMPHREY, and Mr. YOUNG) introduced the following bill; which was read twice and referred to the Committee on Agriculture and Forestry

A BILL

To amend section 406 of the Federal Seed Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That, section 406 of the Federal Seed Act (7 U. S. C.
4 1596) is amended (1) by inserting “(a)” after the section
5 number; (2) by inserting the word “knowingly” before the
6 word “violates”, and (3) by adding at the end thereof a
7 new subsection as follows:

8 “(b) Any person who violates any provision of this
9 Act or the rules and regulations made and promulgated
10 thereunder shall forfeit to the United States a sum, not less
11 than \$25 or more than \$500, for each such violation, which
12 forfeiture shall be recoverable in a civil suit brought in the
13 name of the United States.”

A BILL

To amend section 406 of the Federal Seed Act.

By Mr. MUNDY, Mr. EASTLAND, Mr. THYE, Mr.
MURPHY, and Mr. YOUNG

APRIL 14, 1955

Read twice and referred to the Committee on
Agriculture and Forestry

REMARKS OF SEN. MUNDT - - RE S. 1688

"The purpose of the bill is to remove the stigma of having petty and unknowing violations of the Federal Seed Act by reputable businessmen in the seed industry being classified as criminal violations.

"This amendment will enable the Government to hereafter have the option to bring civil proceedings for violations of the Federal Seed Act in addition to criminal actions. In civil proceedings the Government will not have to prove intent, but in criminal actions to 'knowingly' violate the provisions of the act will be a factor in determining the violator's guilt."

From:

Congressional Record
Vol. 101, Part 4
Pages 4426-7
84th Congress

H. R. 6201

IN THE HOUSE OF REPRESENTATIVES

MAY 12, 1955

Mr. DAGUE introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To amend section 406 of the Federal Seed Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 406 of the Federal Seed Act (7 U. S. C. 1596)
4 is amended (1) by inserting “(a)” after the section number,
5 (2) by inserting the word “knowingly” before the word
6 “violates”, and (3) by adding at the end thereof a new
7 subsection as follows:
8 “(b) Any person who violates any provision of this
9 Act or the rules and regulations made and promulgated
10 thereunder shall forfeit to the United States a sum, not less
11 than \$25 or more than \$500, for each such violation, which
12 forfeiture shall be recoverable in a civil suit brought in the
13 name of the United States.”

84TH CONGRESS
1ST SESSION

H. R. 6201

A BILL

To amend section 406 of the Federal Seed Act.

By Mr. DAGUE

MAY 12, 1935

Referred to the Committee on Agriculture

H. R. 6203

IN THE HOUSE OF REPRESENTATIVES

MAY 12, 1955

Mrs. KNUTSON introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To amend section 406 of the Federal Seed Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 406 of the Federal Seed Act (7 U. S. C. 1596)
4 is amended (1) by inserting “(a)” after the section num-
5 ber, (2) by inserting the word “knowingly” before the word
6 “violates”, and (3) by adding at the end thereof a new
7 subsection as follows:

8 “(b) Any person who violates any provision of this
9 Act or the rules and regulations made and promulgated
10 thereunder shall forfeit to the United States a sum, not
11 less than \$25 or more than \$500, for each such violation,
12 which forfeiture shall be recoverable in a civil suit brought
13 in the name of the United States.”

84TH CONGRESS
1ST SESSION

H. R. 6203

A BILL

To amend section 406 of the Federal Seed Act.

By Mrs. KNUTSON

MAY 12, 1955

Referred to the Committee on Agriculture

units of the United States. If we don't trade with them we are going to limit our market to 100 million people in the United States, a market exceeded by our productive capacity. We need export markets and at the present time our exports exceed our imports. You have heard the details of that in the last 2 days.

But we cannot maintain our export market if we refuse to trade with the world. We were discussing at luncheon how we can gain public understanding of the concept that that only place the American dollar can ultimately be spent is in the United States. When we import products and pay dollars for them we do not lose those dollars. They always come back to us. The American eagle on the dollar is a homing pigeon.

To import products which foreign manufacturers can make better than we is as beneficial to us as to the free world. It simply means that we shift our domestic capital and labor to items which we can produce more efficiently.

Last year about this time as I stood on a street in Tokyo I asked our agent, who was kindly escorting us, what the loud speakers on the mobile trucks were saying. I think he was a little embarrassed, and I say that because he is here in the audience today. But he gave me a straight-forward answer. He said, "They are denouncing American imperialism and demanding that the United States troops go home."

We talked to our Ambassador, we talked to educators and to business people, both Japanese and American. They all told the same story—a story of the sagging Japanese economy. For example, 40 percent of the graduates of Japanese universities this year would not be able to find jobs.

The United States has said to Japan, "We cannot trade with you freely because of your cheap labor. We have imposed restrictions and barriers against you, and the free world has followed our example." But we have also said, "We will be very unhappy if you trade with the Communist bloc."

So, we have placed Japan in an untenable position by saying, in effect, you cannot trade. I say to you that no nation can long endure such a situation. More and more Japan becomes susceptible to the wooing of the Chinese Communists and Russians—the resignation of their last Premier was over this very question.

The same day that I testified in Washington, the President submitted a message to Congress on the Formosa question. The President asked authority to use ships, guns, and planes to defend the security of our country and its allies, and within a week Congress acted. The House of Representatives voted overwhelmingly, and the Senate voted almost unanimously (with the exception of Senator LEHMAN, from New York; Senator LANGER, from North Dakota, and the Independent Senator MORSE, from Oregon) to give him this authority.

This was an issue they could clearly understand; it was an issue they would have no trouble explaining to their constituents at home. But it was a complex problem. Yet for a year and a half the President has said, "It is in the national interest that we liberalize our trade abroad." And he has gone so far as to say, "If we fail in our foreign trade economic policy, we may fail in all."

If the President today sent a message to Congress and asked for \$40 billion for a network of radar and guns to ring our coast line and for planes to patrol our shores, Congress would not hesitate to appropriate the money, and we know it. They couldn't defend their position if they didn't.

But he has said that in a nuclear era it is in the national interest to ring this country with a network of free nations, who will form an integral part of our national security. This is more difficult to explain to the con-

stituents back home. It steps on a few toes. Despite the fact that the heads of labor, the AFL and CIO, the chamber of commerce, the head of the Farm Bureau, and many business people favor it, it was passed by only a slim majority and was almost sent back to committee on three different votes. It was and is a complicated problem and a difficult problem.

It is also fraught with emotion. It has become an emotional rather than a rational issue. I think, though, that there is little doubt about the interest of the consumer in freer trade. It is he who benefits when competition lowers prices, and he is entitled to the benefits of foreign competition.

What happens when an American manufacturer faces foreign competition? I can best demonstrate this by telling you what happened to us when we entered the high-priced 35-mm., still-camera market a few years ago. This is a camera that has many features. It winds like a movie camera, clicks off five pictures a second, taking wonderful action photographs. But it required a lot of handwork that necessitated a selling price of \$700. In competing with foreign camera manufacturers we lost a million and a quarter dollars.

We had to decide what to do. We could say we were being hurt by foreign competition, and we could seek higher tariff protection. But from the moral standpoint we would be prohibiting the American consumer, who likes German cameras, from buying them unless he paid a subsidy in the form of a higher tariff. In other words the consumer would be penalized because we had decided to enter a field in which we were not as efficient (from a cost standpoint) as the Germans. We decided to write off our million and a quarter dollar loss.

I have heard many protectionists say, "You can't compete with cheap foreign labor, if your product has a high-labor content." Manufacturers in our own industry have repeatedly testified that there is a high-labor content in photographic equipment, and I can show you how high it is on a photographic lens.

This is the aluminum we use to make a one-half inch b/1.9 movie camera lens. This is the chunk of optical glass we mold into four different elements and assemble into this lens. The raw material costs 43 cents and the finished lens has a retail value of \$87. So the difference between 43 cents and \$87 is cost of labor in manufacturing or merchandising.

Since our purchasing division is authorized to buy where they can get high quality at the lowest prices, our own lens division competes with foreign manufacturers for the business of our own purchasing division. I think this is the way it should be. For a while they continually lost orders on a very high volume lens. They lost an order for 10,000 lenses and it broke their hearts. They really started to dig in.

The factory superintendent, the vice president of manufacturing, and the optical division manufacturing superintendent held a meeting with 150 people on the tooling and engineering phases of our lens designing and manufacturing program.

Working together, they approached this particular lens in an entirely different way. As a result, the last order for some 20,000 lenses was awarded to our own lens division, on a strictly competitive basis. At Christmas, in the lens division, they had big signs on the bulletin board, "We beat foreign competition." I talked to the superintendent of manufacturing and the foreman about it a few weeks ago, and I said, "In all honesty, would you have done this without the spur of foreign competition?" and they said, "No."

An industry that is protected is in a dangerous position. Its shelter can be taken away at any time. But an industry that is

strong because of competition is an industry based upon a firm foundation. The best weapon of management is its ability to meet competition. The ability to improve its manufacturing techniques cannot be sharpened and developed under the soft blanket of protection.

Again and again manufacturers have pointed out the disparity between American and foreign-labor rates. Never in any of those testimonies have I found reference to the unit cost of production. Yet this is the true and the important element of cost, the controlling factor and the answer to the problem of cheap foreign labor.

Here is an illustration. We had cheap domestic labor in this country a relatively few years ago. When I worked on the Bell & Howell assembly line, we were paid 40 cents an hour to assemble this particular 8-mm. movie camera. We sold this movie camera for less than \$50—\$49.95, to be exact. When the war ended and our labor had almost tripled, we asked ourselves whether we would ever again be able to sell a movie camera for less than \$50.

We started to work on a design concept, a tooling concept. Whole groups of people worked on it as a team. We produced a camera at \$49.95, a camera with 6 exclusive features that the other camera did not have. It is made with such precision that the parts resemble those of Swiss watches, yet it is assembled on a conveyerized line. We did it with \$2-an-hour labor, because we designed the camera and developed manufacturing methods to use the mind of our workers more than their hands and their muscles. And our labor cost per unit was very low.

Recently in Des Moines, I spoke to the National Farm Institute. I'm not an expert on farm problems, but I have studied the impact of our export trade on the farm market. My wife and I own a farm in Iowa, and I told them I am ashamed to sell corn to the Government each year and then approve the plans of the farm manager to plant more corn the next season.

We know the country needs corn like it needs butter. Yet we do it because if we didn't, our farm manager would think we should be committed to a mental institution. Probably it is best to go along until this thing finally rights itself nationally and farm products are sold on the free market. But I will never stop talking about it.

How wrong it is to freeze unneeded capital and labor on the farm today. What if they had done this 80 years ago when the population distribution was 90-percent rural and 10-percent urban, instead of the reverse? It is little more sensible today to freeze the 10 percent and keep labor and capital employed where it is only relatively efficient.

Where does the farmer stand? On an average, about a thousand dollars of his cash receipts come from exports. We export 25 percent of our corn, 33 percent of our wheat, 25 percent of our tobacco and soybeans, and 33½ percent of our cotton and rice.

The dairy farmers in Wisconsin, who were successful in forcing the infamous cheese quota, export 42 percent of their dried, evaporated, and condensed milk. If it weren't for the export market they would be hard-pressed. Yet they, like every other economic group in the United States, including business, want a one-way street. Farmers favor a free-trade policy almost universally, until it comes to import quotas that interfere with the artificially high prices of their own products. They do not ask where the dollars for their exports are to come from if we refuse to trade with their foreign customers. Are we to give dollars away, or are they to be syphoned from some other part of our economy?

The farmer, depending tremendously now on the export market, must face the issue. On which side does he want his bread but-

tered? In the long run he cannot have it buttered on both sides.

It is often said that freer trade is all right in theory, but would not work in practice. And to the protectionists we are the theorists and they are the practical men who built America. They know that we have to keep out cheap foreign labor and keep our market to ourselves. The fact that almost every economist in the United States favors the President's program does put us in a category with college professors and economists. But I submit to you that the real theorist is the protectionist, because protectionism is fine in theory, but it has never really worked in practice.

Who is to decide what infant industry is to be protected? Who is to decide when an infant industry has grown to maturity? Many are protected, but few, if any, are ever weaned.

The argument that our national defense depends upon strategic industries that must be protected is essentially theory. In actual practice, most of our defense industries—the aircraft, automotive, electronics industries—have little, if any, tariff protection, and have never needed it.

I should like to mention that our own Bell & Howell executives have stood with me in my support of the President's foreign economic trade policy. Without their support, or with their veto, I could not have acted. Time after time in Washington a Congressman would say to me, "Yes, but you don't have any constituents back home." I, too, used to be naive enough to think that the president of a company is his own boss. But when I became president of Bell & Howell, I found that some 3,000 employees, 2,400 stockholders and directors and several thousand dealers were my bosses. Congressmen at least have tenure of office for 2 or 6 years. But corporate presidents have no such job security.

I have expected to hear from some Bell & Howell stockholders who might ask, "What are you trying to do to our company by lowering tariffs?" But I haven't received a single adverse letter, and I have received many favorable ones.

I am sure that the bylaws of our corporation are not very different from those of other corporations. And nowhere do I see that the officer of a company is required to subordinate the national interest to the immediate short-range interest of his own company.

I think we must always, in American industry, in farming, and in labor, determine what is in the national interest and then find a way to adjust our company programs to that interest. It is not always easy, but it is necessary.

The last thing I have to say is this: We who are Republicans worked awfully hard to put this administration in Washington. I would be very discouraged, as an officer of our company, if the board of directors who had elected me opposed the policies I thought best for the company.

President Eisenhower said in a letter to Congress, "I am not going to ruin any industries. This is a gradual, moderate program." He has said that our present situation is a perilous one, and I believe that all of us here agree. I hope that all of you will act—that you will talk to everyone you can, and write to your Senators. They are tremendously responsive to letters. MARGUERITE CHURCH, our own Congresswoman, told me she has been snowed under by emotional letters from small groups of protectionists, but seldom has she heard from the other side. She wonders if we are a small voice or if others believe as we do.

Support for our program is growing. Day by day people are telling their Congressmen to vote in the national interest and not in the special interests of particular groups.

The future security of our Nation will be imperiled if this program is not approved by the Senate. The bill must be passed, I be-

lieve, but it will be passed more quickly if everyone in this group will wholeheartedly support it. If each one of you were to go on record with your Senator, that alone would carry the issue.

I believe, and I am sure that you believe, that a liberalized trade policy in the national interest will make industry in this country more efficient. It will help lower our unit cost of production, lower our cost, and raise our standard of living, strengthen our allies, weaken our enemies, and provide a greater measure of strength and support to the defense of this Nation than \$40 billion worth of guns ringing our shores.

George Kennan Displayed Great Foresight

EXTENSION OF REMARKS OF

HON. JAMES M. QUIGLEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 1955

Mr. QUIGLEY. Mr. Speaker, today many public figures are demonstrating great powers of hindsight in relation to diplomatic relations with Russia. An article by R. H. Shackford, which was published by the Washington Daily News on May 11, indicates that George F. Kennan, of Adams County, in the 19th Congressional District of Pennsylvania, is one of the very few who had the foresight to make the correct analysis well in advance of the events.

Mr. Kennan, it will be recalled, is the trained Russian expert, long in the diplomatic service, whose advice and counsel Secretary of State Dulles has indicated he can do without. This action on the part of Mr. Dulles may account in large measure for the aimless drifting of our foreign relations.

Under leave to revise and extend my remarks, I include the article by Mr. Shackford:

A WARNING ABOUT RED NEGOTIATIONS

(By R. H. Shackford)

Normal negotiations with the Soviet leaders are impossible.

When they want something from the West, according to George F. Kennan, former State Department Russian expert, they are willing to put on a show of negotiating and to soft pedal temporarily their basic duplicity.

"And when that happens there will always be Americans who will leap forward with gleeful announcements that 'the Russians have changed' and some who will even try to take credit for having brought about such changes."

So wrote Mr. Kennan in 1947.

As the United States rushes now toward another big power conference "at the summit," it seems wise to recall another Kennan warning.

THE WARNING

At the end of the war with Germany, 10 years ago, Mr. Kennan was stationed in Moscow. He wrote an appraisal of the Soviet position. The warning in this hitherto unpublished document was:

"Remember that the Russian views all currents of public sentiment as a sailor views the winds. If he cannot sail into the wind, he can at least use his power to tack in directions against the way they blow. * * *

"In the case of the United States, the Kremlin * * * knows the American public has been taught (this was in 1945) to believe:

"Collaboration with Russia as we envisage it is entirely possible.

"That it depends only on establishment of proper personal relationships of cordiality and confidence with Russian leaders.

"That if the United States doesn't find the means to assure this collaboration (again as we envisage it), then the past war was fought in vain and civilization is faced with a complete catastrophe.

"The Kremlin knows that none of these proposals are sound. It knows the Soviet Government is technically incapable of collaborating with other governments in a manner which Americans have in mind. It knows the Soviet secret police has no intention of permitting anything like the number of personal contacts that is required to lead to a broad basis of personal confidence and collaboration."

UNITED STATES TRIES

"It knows through 11 years (in 1945) of diplomatic relations it has been the United States in 99 cases out of 100 which has taken the initiative to try to establish relationships of cordiality and confidence; that these efforts met almost invariably with suspicion, discourtesy, and rebuff, and that this will not and cannot be otherwise in the future.

"Finally, it knows that the type of intimate collaboration for which Americans yearn is by no means necessary for future world peace. It knows, as a body thoroughly versed in the realities of power, that all that is really required to assure stability among the present great powers for decades to come is preservation of a reasonable balance of strength between them and a realistic understanding as to mutual zones of vital interest.

"But it is not the job of the Soviet Government to disabuse the American public of prejudices highly favorable to Soviet interests. It is entirely agreeable to Moscow that Americans should be indulged in a series of illusions which lead them to put pressure on their government to accomplish the impossible and to go always one step further in pursuit of illusive favor of the Soviet Government."

Mr. Kennan pointed out then that the Soviets never looked on international cooperation as anything except an instrument to support their own aggressive policies.

Amendment to Section 406 of the Federal Seed Act

EXTENSION OF REMARKS OF

HON. COYA KNUTSON

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 1955

Mrs. KNUTSON. Mr. Speaker, I have today introduced a bill to amend section 406 of the Federal Seed Act.

The purpose of this proposed amendment to one of the penalty provisions of the Federal Seed Act is intended to remove the stigma of having petty and unknowing violations of the Federal Seed Act by reputable businessmen in the seed industry being classified as criminal violations.

This amendment will enable the Government to hereafter have the option to bring civil proceedings for violations of the Federal Seed Act in addition to criminal actions. In civil proceedings the Government will not have to prove intent, but in criminal actions to knowingly violate the provisions of the act will be a factor in determining the violator's guilt.

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued March 22, 1956
For actions of March 21, 1956
84th-2nd, No. 50

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HIGHLIGHTS: House passed second supplemental appropriation bill for 1956. House agreed to Senate amendments to bill extending school milk and brucellosis eradication programs through 1958. Sen. Anderson questioned Department's estimate of minimum support level under farm bill for basic crops. Sen. Capehart and Rep. Harvey introduced and discussed bills to increase industrial use of agricultural surpluses.

HOUSE

1. APPROPRIATIONS. Passed with amendments H. R. 10004, the second supplemental appropriation bill for 1956. p. 4680 (For items of interest to this Department, see Digest 46.)
2. SCHOOL MILK; BRUCELLOSIS ERADICATION. Rejected the conference report on H. R. 8320, to extend the school milk and brucellosis eradication programs, and adopted the Senate amendments thereto (pp. 4680, A2553). The Senate amendments provided for the extension of the school milk and brucellosis eradication programs through the fiscal year 1958 and increases in funds available for the programs, the extension of the milk program to certain nursery schools and non-profit organizations, and the extension of the surplus dairy products disposal to the VA and armed services through 1958. This bill is now ready for the President.
3. TOBACCO. Rep. Wilson, Ind., criticized the use of inferior and stem tobacco in the manufacture of cigarettes and suggested that an investigation be made of the possible harmful effects of this process of manufacture. p. 4679
4. DAIRY INDUSTRY. Rep. Andersen paid tribute to D. T. Carlson as a leader in the dairy industry. p. 4688

5. BANKING AND CURRENCY. Rep. Reuss spoke in favor of his bill H. R. 10080, to provide for the payment by the U. S. Treasury of unpaid principal and interest, up to the date of receivership, of bonds of six joint stock land banks which failed in the 1920's and 1930's. p. 4706
6. MONOPOLIES. Rep. Patman, in a speech favorable to H. R. 11, to prohibit certain price discriminations, cited the support of the Cooperative League to this measure. p. 4712
7. ELECTRIFICATION. Both Houses received the annual report of the Federal Power Commission; to the Interstate and Foreign Commerce Committee. pp. 4714, 4638
8. TRANSPORTATION. The Merchant Marine and Fisheries Committee reported without amendment H. R. 7874, to provide for transportation of passengers and merchandise on Canadian vessels between certain points within Alaska and the U. S. (H. Rept. 1928). p. 4714
9. PROPERTY. The Government Operations Committee adopted a report, "Real and Personal Property Inventory Report" of the U. S. government (H. Rept. 1930). p. 4714

SENATE

10. FARM PROGRAM. Sen. Anderson questioned the accuracy of figures released by the Department of estimated minimum support levels for basic crops and dairy products under the farm bill, S. 3183, and offered computations he had made to support his position. p. 4676

For a summary of the provisions of the farm bill as passed by the Senate see the attachment to this Digest.

11. FORESTRY. The Agriculture and Forestry Committee ordered reported without amendment the following bills: p. D267
H. R. 374, to authorize the adjustment and clarification of ownership to certain lands within the Stanislaus National Forest.
H. R. 1855, to authorize the Secretary of Agriculture to (1) require, whenever it is determined to be in the public interest, that satisfactory cooperative arrangements be made before any research is undertaken by the Forest Service; (2) establish a Forest and Range Research National Advisory Committee; (3) advance funds to cooperators when cooperative research work will be stimulated or facilitated by so doing; and (4) pay from Forest Service research activities funds the travel and subsistence expenses of the members of the Forest and Range Research National Advisory Committee in connection with their attendance at meetings for the purpose of performing their duties.
12. WATER CONSERVATION. The Agriculture and Forestry Committee ordered reported without amendment H. R. 7236, to amend section 8 (b) of the Soil Conservation and Domestic Allotment Act with respect to water conservation practices. p. D267
13. SEEDS. The Agriculture and Forestry Committee ordered reported with amendment S. 1688, to prescribe civil penalties for violations of the Federal Seed Act. p. D267
14. PUBLIC LANDS. The Agriculture and Forestry Committee ordered reported with amendment S. 2246, to authorize the sale of certain lands to the city of Wall, S. Dak.; and without amendment H. J. Res. 112, to release reversicary right

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

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HIGHLIGHTS: Rep. Jones, Mo., defended House Agriculture Committee against allegations of dilatory tactics in consideration of farm bill. Rep. Johnson, Wis., criticized flexible price support of dairy products and cited decline in dairy products producers' gross income. Rep. Gross urged acceleration of consideration of farm bill and soil bank proposal. Rep. Sikes urged increased Federal-State cooperation in forestry programs. Rep. Fountain criticized this Department's actions in CCC cheese purchase. Sen. Humphrey said farm program was factor in Minnesota primary election.

SENATE

1. FARM PROGRAM. The "Daily Digest" states that "conferees of the Senate met in executive session with representatives of the House Committee on Agriculture to discuss H. R. 12, Agricultural Act of 1956. It was announced that a conference meeting will be held on this bill on Monday, March 26". p. D280
Sen. Humphrey spoke of the farm program as being a factor in the results of the Presidential primary election in Minnesota. p. 4775
Sen. Langer inserted several resolutions adopted by the Water Users Irrigation Conference relative to the sale of lands within irrigation districts, minor construction by irrigation districts, increasing the sugar beet quota, increasing acreage allotments for small farmers, and expanding the noxious weed program. p. 4718
2. FORESTRY. The Agriculture and Forestry Committee reported without amendment the following bills: p. 4719
H. R. 374, to authorize the adjustment and clarification of ownership to certain lands within the Stanislaus National Forest (S. Rept. 1702).
H. R. 1855, to authorize the Secretary of Agriculture to (1) require, whenever it is determined to be in the public interest, that satisfactory co-operative arrangements be made before any research is undertaken by the Forest Service; (2) establish a Forest and Range Research National Advisory Committee, (3) advance funds to cooperators when cooperative research work will be

stimulated or facilitated by so doing; and (4) pay from Forest Service research activities funds the travel and subsistence expenses of the members of the Forest and Range Research National Advisory Committee in connection with their attendance at meetings for the purpose of performing their duties (S. Rept. 1703).

3. WATER CONSERVATION. The Agriculture and Forestry Committee reported without amendment H. R. 7236, to amend section 8 (b) of the Soil Conservation and Domestic Allotment Act with respect to water conservation practices (S. Rept. 1704). p. 4719
4. SEEDS. The Agriculture and Forestry Committee reported with amendment S. 1688, to prescribe civil penalties for violations of the Federal Seed Act (S. Rept. 1701). p. 4719
5. PUBLIC LANDS. The Agriculture and Forestry Committee reported with amendment S. 2246, to authorize the sale of certain lands to the city of Wall, S. Dak. (S. Rept. 1700); and without amendment H. J. Res. 112, to release reversionary right to improvements on a 3-acre tract in Orangeburg County, S. C. (S. Rept. 1707). p. 4719
6. COMMITTEE ASSIGNMENTS. Sen. Anderson was excused from further service as a member of the Agriculture and Forestry Committee and assigned to the Finance Committee. Sen. Johnson was excused from further service as a member of the Finance Committee and assigned to the Appropriations Committee. Sen. Laird was assigned to the Post Office and Civil Service Committee. p. 4717
7. FORESTRY. Sen. Morse spoke in favor of and explained the provisions of a bill (S. 3420) he recently introduced to expand the construction of forest access roads, and inserted the text of the bill and statements relative to it. p. 4758

HOUSE

8. FARM PROGRAM. Rep. Jones, Mo., defended the Agriculture Committee and the Democratic Party membership against allegations of dilatory tactics in consideration of the farm bill. p. 4783
Rep. Gross urged that consideration of the farm bill, including the soil bank proposal, be accelerated, even foregoing the scheduled Easter recess. However, Rep. Jones contended that consideration would be given to the farm bill as soon as possible, after study of its provisions. p. 4788
9. DAIRY PRODUCTS. Rep. Johnson, Wis., criticized the operation of flexible price supports as contributing to the alleged decline in the gross income of the dairy farmer. p. 4783
10. FORESTRY. Rep. Sikes urged increased Federal-State cooperation in tree planting activities, forest fire control, forestry research, and forest management. He urged that obstacles to accomplishment of these objectives be overcome as soon as possible. p. 4788
11. SURPLUS COMMODITIES. Rep. Fountain criticized this Department's actions in certain Commodity Credit Corporation cheese purchase and resale activities of March and April 1954 and inserted correspondence between this Department and

VIOLATIONS OF THE FEDERAL SEED ACT

MARCH 22 (legislative day, MARCH 19), 1956.—Ordered to be printed

Mr. MUNDT, from the Committee on Agriculture and Forestry,
submitted the following

REPORT

[To accompany S. 1688]

The Committee on Agriculture and Forestry, to whom was referred the bill (S. 1688) to amend section 406 of the Federal Seed Act, having considered the same, report thereon with a recommendation that it do pass with amendments.

This bill would remove the criminal penalty for inadvertent violation of the Federal Seed Act where no criminal intent is present, and provides a civil penalty for such violation. Under existing law shippers of seed may be subject to criminal penalty and the stigma attached thereto if they fail to make a proper analysis and certification of the seed shipped. Your committee feels that this is unnecessarily strict. The language of the bill was worked out by your committee with the seed trade and the Department of Agriculture, and is satisfactory to all.

Sections 2, 3, and 4 of the bill, which would be added by committee amendments, contain technical amendments required as a result of the substantive changes made by the first section of the bill.

The committee amendments are fully explained by the attached letters from the Department of Agriculture.

DEPARTMENT OF AGRICULTURE,
Washington 25, D. C., June 16, 1955.

HON. ALLEN J. ELLENDER,
Chairman, Committee on Agriculture and Forestry,
United States Senate.

DEAR SENATOR ELLENDER: This is in reply to your letter of April 15 requesting a report on S. 1688, a bill to amend section 406 of the Federal Seed Act.

This Department recommends that the bill be passed, provided it is changed as suggested below.

The effect of the proposed amendment is twofold. The insertion of the word "knowingly" in the proposed subsection 406 (a) would make it necessary to prove a measure of intent to establish a violation

of the act, and the new subsection 406 (b) authorizes a civil action for the assessment of a penalty, in which case it would not be necessary to establish intent.

The necessity to prove that a violation was committed knowingly under the Importation of Adulterated Seeds Act of 1912, as amended, was one of the principal causes for the repeal of this act and its supersedure by the Federal Seed Act in 1939. The word "knowingly" was deliberately omitted from the Federal Seed Act. However, prosecutions are not recommended under this act unless the Department is believed to have evidence of knowledge, gross negligence, or disregard of the requirements of the act, or the regulations thereunder. The Department believes that criminal action should be available in these three classes of cases and suggests that if section 406 is to be amended to require some element of knowledge or intent for criminal prosecutions, the amendment should specifically provide for prosecution in such classes of cases. It is suggested that in that event, the provisions of section 406 be amended to read as follows:

SEC. 406. (a) Any person who knowingly, or as a result of gross negligence, or as a result of disregard of the requirements of this Act or the rules and regulations made and promulgated thereunder, violates any provision of this Act or such rules and regulations shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall pay a fine of not more than \$1,000, for the first offense, and upon conviction for each subsequent offense not more than \$2,000.

The Department does not object to the proposed new subsection 406 (b) providing for civil penalties, although it is not known how effective a deterrent to violations the civil penalties may prove to be.

It is recommended that, if proposed subsection 406 (b) is enacted into law, incidental changes be made in sections 204 and 412 of the act so that these sections would read, respectively, as follows:

SEC. 204. The use of a disclaimer or nonwarranty clause in any invoice, advertising, labeling, or written, printed, or graphic matter, pertaining to any seed shall not constitute a defense, or be used as a defense in any way, in any prosecution or other proceeding brought under the provisions of this Act, or the rules and regulations made and promulgated thereunder.

SEC. 412. The institution of any one of the proceedings provided for in sections 405, 406, 409, 410, and 411 shall not bar institution of any of the others, except that action shall not be instituted under both subsections 406 (a) and (b) for the same cause of action. Nothing in this Act shall be construed as requiring the Secretary of Agriculture to recommend prosecution, or institution of civil penalty proceedings, libel proceedings, cease-and-desist proceedings, or proceedings for the enforcement of a cease-and-desist order, for minor violations of this Act or the rules and regulations made and promulgated thereunder whenever he believes that the public interest will be adequately served by suitable written notice or warning.

It is recommended that a savings clause be included in the bill providing that the amendments made by it would apply only with respect to violations occurring after the date of enactment, so as to

avoid questions concerning prosecutions of offenses previously committed.

These amendments, if approved, are not expected to increase the cost of administration of the Federal Seed Act.

The Department is considering recommending the enactment of various other amendments of the Federal Seed Act in a separate bill which it is anticipated will be sent to the Congress in the near future. That bill would make certain changes in section 204 not reflected in the foregoing proposal concerning that section.

In view of the subsequent request that this report be submitted today we are not awaiting advice from the Bureau of the Budget regarding the relationship of this proposed legislation to the program of the President.

Sincerely yours,

EARL L. BUTZ, *Acting Secretary.*

DEPARTMENT OF AGRICULTURE,
Washington, D. C., November 4, 1955.

HON. ALLEN J. ELLENDER,
*Chairman, Committee on Agriculture and Forestry,
United States Senate.*

DEAR SENATOR ELLENDER: On June 16, 1955, this Department reported, at the request of your committee, on S. 1688, 84th Congress, a bill to amend section 406 of the Federal Seed Act (7 U. S. C. 1596).

The report suggested that certain changes be made in the bill. It subsequently developed that the proposed changes were not acceptable in some respects to the seed trade regulated by the act, and discussions were had with members and counsel of your committee and the seed trade in an effort to draft language that would be agreeable to all concerned.

On September 14, 1955, Mr. Harker Stanton, counsel for your committee, inquired whether this Department would object to a bill that would amend the present provisions of section 406 of the act to read as follows:

(a) Any person who knowingly, or as a result either of gross negligence or of a failure to make a reasonable effort to inform himself of the pertinent facts, violates any provision of this Act or the rules and regulations made and promulgated thereunder shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall pay a fine of not more than \$1,000, for the first offense, and upon conviction for each subsequent offense not more than \$2,000.

We understand that proposed subsection 406 (b) of the act as set forth in S. 1688 would be retained in the bill and the amendments of sections 204 and 412 of the act and a savings clause as proposed in our report on S. 1688 would be included in the bill. Under such circumstances this Department would not object to the proposed subsection 406 (a) as set forth above.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

TRUE D. MORSE,
Acting Secretary.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

FEDERAL SEED ACT OF 1939, AS AMENDED

* * * * *

SEC. 204. The use of a disclaimer or nonwarranty clause in any invoice, advertising, labeling, or written, printed, or graphic matter, pertaining to any seed shall not constitute a defense, or be used as a defense in any way, in any prosecution **[**or in any proceeding for confiscation of seeds,**]** *or other proceeding* brought under the provisions of this Act, or the rules and regulations made and promulgated thereunder.

* * * * *

SEC. 406. (a) Any person who **[**violates any provision of this Act or the rules and regulations made and promulgated thereunder**]** *knowingly, or as a result either of gross negligence or of a failure to make a reasonable effort to inform himself of of the pertinent facts, violates any provision of this Act or the rules and regulations made and promulgated thereunder* shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall pay a fine of not more than \$1,000, for the first offense, and upon conviction for each subsequent offense not more than \$2,000.

(b) *Any person who violates any provision of this Act or the rules and regulations made and promulgated thereunder shall forfeit to the United States a sum, not less than \$25 or more than \$500, for each such violation, which forfeiture shall be recoverable in a civil suit brought in the name of the United States.*

* * * * *

SEC. 412. The institution of any one of the proceedings provided for in sections 405, 406, 409, 410, and 411, **[**or criminal prosecution under section 406**]** shall not bar institution of any of the others, *except that action shall not be instituted under both subsections 406 (a) and (b) for the same cause of action.* **[**However, nothing**]** *Nothing* in this Act shall be construed as requiring the Secretary of Agriculture to recommend prosecution **[**or institution of**]**, *or institution of civil penalty proceedings, libel proceedings, cease-and-desist proceedings, or proceedings for the enforcement of a cease-and-desist order, for minor violations of this Act or the rules and regulations made and promulgated thereunder* whenever he believes that the public interest will be adequately served by suitable written notice or warning.

Calendar No. 1726

84TH CONGRESS
2D SESSION

S. 1688

[Report No. 1701]

IN THE SENATE OF THE UNITED STATES

APRIL 14, 1955

Mr. MUNDT (for himself, Mr. EASTLAND, Mr. THYE, Mr. HUMPHREY, and Mr. YOUNG) introduced the following bill; which was read twice and referred to the Committee on Agriculture and Forestry

MARCH 22 (legislative day, MARCH 19), 1956

Reported by Mr. MUNDT, with amendments

[Omit the part struck through and insert the part printed in italic]

A BILL

To amend section 406 of the Federal Seed Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 406 of the Federal Seed Act (7 U. S. C.
4 1956) is amended ~~(1)~~ by inserting "~~(a)~~" after the section
5 number; ~~(2)~~ by inserting the word "knowingly" before the
6 word "~~violates~~", and ~~(3)~~ by adding at the end thereof a
7 new subsection to read as follows:

8 "*(a) Any person who knowingly, or as a result either of*
9 *gross negligence or of a failure to make a reasonable effort*
10 *to inform himself of the pertinent facts, violates any provision*
11 *of this Act or the rules and regulations made and promul-*

1 *gated thereunder shall be deemed guilty of a misdemeanor*
2 *and, upon conviction thereof, shall pay a fine of not more*
3 *than \$1,000, for the first offense, and upon conviction for*
4 *each subsequent offense not more than \$2,000."*

5 " (b) Any person who violates any provision of this
6 Act or the rules and regulations made and promulgated
7 thereunder shall forfeit to the United States a sum, not less
8 than \$25 or more than \$500, for each such violation, which
9 forfeiture shall be recoverable in a civil suit brought in the
10 name of the United States."

11 *SEC. 2. Section 204 of the Federal Seed Act (7*
12 *U. S. C. 1574) is amended to read as follows:*

13 "SEC. 204. The use of a disclaimer or nonwarranty
14 clause in any invoice, advertising, labeling, or written,
15 printed, or graphic matter, pertaining to any seed shall not
16 constitute a defense, or be used as a defense in any way, in
17 any prosecution or other proceeding brought under the pro-
18 visions of this Act, or the rules and regulations made and
19 promulgated thereunder."

20 *SEC. 3. Section 412 of the Federal Seed Act (7*
21 *U. S. C. 1602) is amended to read as follows:*

22 "SEC. 412. The institution of any one of the proceedings
23 provided for in sections 405, 406, 409, 410, and 411 shall
24 not bar institution of any of the others, except that action
25 shall not be instituted under both subsections 406 (a) and

1 (b) for the same cause of action. Nothing in this Act shall
2 be construed as requiring the Secretary of Agriculture to
3 recommend prosecution, or institution of civil penalty pro-
4 ceedings, libel proceedings, cease-and-desist proceedings, or
5 proceedings for the enforcement of a cease-and-desist order,
6 for minor violations of this Act or the rules and regulations
7 made and promulgated thereunder whenever he believes that
8 the public interest will be adequately served by suitable
9 written notice or warning."

10 SEC. 4. The amendments made by this Act shall be
11 applicable only with respect to violations occurring after the
12 enactment of this Act.

Amend the title so as to read: "A bill to amend the
Federal Seed Act."

Calendar No. 1726

84TH CONGRESS
2D SESSION

S. 1688

[Report No. 1701]

A BILL

To amend section 406 of the Federal Seed Act.

By Mr. MUNDY, Mr. EASTLAND, Mr. TAYE, Mr.
HUMPHREY, and Mr. YOUNG

APRIL 14, 1955

Read twice and referred to the Committee on
Agriculture and Forestry

MARCH 22 (legislative day, MARCH 19), 1956

Reported with amendments

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
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House sent farm bill to conference. House subcommittee ordered reported bill amending date of announcement of tobacco marketing quotas. House committee ordered reported bill authorizing U. S. membership in OTC.

HOUSE

1. FARM PROGRAM. Reps. Colley, Poage, Gathings, Hope, and Andresen were appointed conferees on H. R. 12, the farm bill. p. 4989 (Senate conferees were appointed on Mar. 19.) Reps. Arends, Miller, Neb., and Gross questioned Rep. Cooley regarding the time when a report might be forthcoming, but Rep. Cooley urged that temperate consideration be taken of the measure and said it would require considerable thought. p. 4990

Rep. Deane urged that, in consideration of H. R. 12, there should be some provision for the adjustment of acreage allotments and marketing quotas as affected by abnormal weather conditions. p. 4984

Rep. Berry recommended that Congress forego its scheduled Easter recess until farm legislation is passed. p. 4985

Rep. Miller said conferees should complete action on the farm bill as soon as possible. p. 4986

Rep. Hoffman criticized Rep. Cooley for stating that Secretary Benson would not be called before the committee, and alleged a rather close tie existed between Rep. Cooley and Mr. W. Reuther. p. 4986 Rep. Holland defended Mr. Reuther against the alleged attacks of Rep. Hoffman. p. 4987

The "Daily Digest" states that the Agriculture Committee met in executive session on H. R. 12 and adopted motions expressing its sense that the committee is opposed to a compulsory soil-bank plan and that the proposed limitation on price support benefits should be \$25,000. p. D290

2. LIVESTOCK AND MEATS. Rep. Jensen inserted the text of several spot announcements used on Station KMA, Shenandoah, Ia., promoting the increased consumption of meat and dairy products. p. 4987
 3. TOBACCO. The Tobacco Subcommittee of the Agriculture Committee ordered favorably reported to the full committee H. R. 9474, to provide for the amendment of the time for announcement of tobacco marketing quotas by the Secretary, by providing that the announcement for flue-cured tobacco should be December 1 of any marketing year and February 1 for other kinds of tobacco. p. D290
 4. PERSONNEL. Both Houses received from the Civil Service Commission a proposed bill "to amend the Federal Employees' Group Life Insurance Act of 1954, as amended, to provide nonoccupational group major medical expense insurance for Federal employees and their dependents...."; to the Post Office and Civil Service Committees. pp. 4894, 5009
 5. INFORMATION. Passed with amendments H. R. 8957, to extend the time within which the commission may report on the plans for a D. C. Civic Auditorium. p. 4988, 4991
 6. MONOPOLIES. Rep. Patman inserted a statement of the National Council of Farmer Cooperatives supporting H. R. 11, to prohibit certain price discriminations in trade. p. 5006
 7. FOREIGN TRADE. The Ways and Means Committee ordered reported with amendments H. R. 5550, to authorize U. S. membership in the Organization for Trade Cooperation. p. D291
- SENATE
8. FOREIGN AFFAIRS. Passed as reported S. 3116, to authorize the President to provide for promotion and strengthening of international relations through cultural and athletic exchanges and participation in international fairs and festivals. p. 4911
 9. PUBLIC LANDS. Passed as reported S. 2246, to authorize the sale of certain lands to the city of Wall, S. Dak. p. 4917
Passed without amendment H. J. Res. 112, to release reversionary right to improvement on a 3-acre tract in Orangeburg County, S. Car. This bill is now ready for the President. p. 4925
 10. SEEDS. Passed as reported S. 1688, to prescribe civil penalties for violations of the Federal Seed Act. p. 4917
 11. FORESTRY. Passed without amendment H. R. 374, to authorize the adjustment and clarification of ownership to certain lands within the Stanislaus National Forest, Calif. This bill is now ready for the President. pp. 4918, 4923
Passed without amendment H. R. 1855, to authorize the Secretary of Agriculture to advance funds to cooperators when cooperative forest research work will be stimulated or facilitated by so doing. This bill is now ready for the President. pp. 4923, 4924 (The other provisions mentioned in Digests 50 and 51 were not in the bill as reported and passed in the Senate.)
The Interior and Insular Affairs Subcommittee on Territories ordered reported to the full committee S. 2517, to provide for releasing from escrow certain receipts from the sale of timber within the Tongass National Forest, Alaska. p. D288

Commerce Act in order to authorize common carriers by railroad to carry a disabled individual requiring an attendant at the usual fare charged for one person, which had been reported from the Committee on Interstate and Foreign Commerce with amendments, on page 1, line 6, after the word "disabled", to strike out "individual" and insert "person"; and on page 2, line 1, after the word "such", to strike out "individual" and insert "person", so as to make the bill read:

Be it enacted, etc., That section 22 of the Interstate Commerce Act is amended by inserting after "or other guide dog specially trained and educated for that purpose" a comma and "or from carrying a disabled person accompanied by an attendant if such person is disabled to the extent of requiring such attendant."

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to amend the Interstate Commerce Act in order to authorize common carriers to carry a disabled person requiring an attendant and such attendant at the usual fare charged for one person."

AMENDMENT OF HAWAIIAN ORGANIC ACT

The bill (H. R. 6461) to amend sec. 73 (i) of the Hawaiian Organic Act was considered, ordered to a third reading, read the third time, and passed.

RATIFICATION AND CONFIRMATION OF REVISED LAWS OF HAWAII

The bill (H. R. 6463) to ratify and confirm sec. 4539, Revised Laws of Hawaii, 1945, sec. 1 (b), act 12, Session Laws of Hawaii, 1951, and the sales of public lands consummated pursuant to the terms of said statutes was considered, ordered to a third reading, read the third time, and passed.

AMENDMENT OF CERTAIN PATENTS OF GOVERNMENT LANDS, TERRITORY OF HAWAII

The bill (H. R. 6307) to authorize the amendment of certain patents of Government lands containing restrictions as to use of such lands in the Territory of Hawaii was considered, ordered to a third reading, read the third time, and passed.

AMENDMENT OF SECTION 73 (I) OF THE HAWAIIAN ORGANIC ACT

The bill (H. R. 6808) to amend section 73 (i) of the Hawaiian Organic Act was considered, ordered to a third reading, read the third time, and passed.

AMENDMENT OF RESTRICTED COVENANT ON LAND PATENT NO. 10410, COUNTY OF HAWAII, T. H.

The bill (H. R. 6824) to authorize the amendment of the restrictive covenant on land patent No. 10410 issued to Keoshi

Matsunaga, his heirs or assigns on July 20, 1936, and covering lots situated in the county of Hawaii, T. H., was considered, ordered to a third reading, read the third time, and passed.

SALE OF CERTAIN LANDS TO THE CITY OF WALL, S. DAK.

The Senate proceeded to consider the bill (S. 2246) to authorize the sale of certain lands to the city of Wall, S. Dak., which had been reported from the Committee on Agriculture and Forestry with amendments, on page 1, line 10, after word "numbered", to strike out "5209" and insert "5299", and on page 2, line 10, after the word "the", where it appears the second time, to insert "said lot 3, 150 feet to the east boundary line of block A as platted and according to plat on file, thence south 0 degrees 1 minute west 47.35 feet to the southeast corner of said block A, thence west 483.06 feet to the east boundary line of the public highway as now established, thence on a curve southwesterly 1,600 feet along the southeasterly boundary line of said," so as to make the bill read:

Be it enacted, etc., That the Secretary of Agriculture is authorized and directed to convey by quitclaim deed to the city of Wall, S. Dak., all right, title, and interest of the United States to the following described lands situated in Pennington County, S. Dak., upon payment therefor of an amount equal to the fair market value of such lands as determined by the Secretary of Agriculture after appraisal of such lands: Tract No. 5299, being a portion of outlot 1 of the south half of the northeast quarter of section 6, township 1 south, range 16 east, Black Hills meridian, more particularly described as follows:

Commencing at a point 15 feet due west of the northwest corner of lot 1 in block 2 of Mackrill's addition to the town of Wall, thence due west 250 feet to the northeast corner of lot 1 of the southeast quarter of the northeast quarter of such section 6, thence south 150 feet to the southeast corner of lot 3 of the southeast quarter of the northeast quarter of such section 6, thence west along the south boundary line of the said lot 3, 150 feet to the east boundary line of block "A" as platted and according to plat on file, thence south 0 degrees 1 minute west 47.35 feet to the southeast corner of said block "A", thence west 483.06 feet to the east boundary line of the public highway as now established, thence on a curve southwesterly 1,600 feet along the southeasterly boundary line of said public highway to the west boundary of the southwest quarter of the northeast quarter of such section 6, thence south 130 feet to the center of such section 6, thence east 2,068 feet along the south boundary line of the south half of the northeast quarter of such section 6, thence north 1,290 feet to the place of beginning, according to the official plat thereof filed in the office of register of deeds of Pennington County, S. Dak., in plat book No. 3 at page 75, and containing 39 acres more or less, except a plot extending 150 feet west and 300 feet south from the northeast corner of such tract and also excluding such part of such tract as may be required for the planned State highway and the spur to connect such highway with Main Street, Wall, S. Dak.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

AMENDMENT OF FEDERAL SEED ACT

The Senate proceeded to consider the bill (S. 1688) to amend section 406 of the Federal Seed Act, which had been reported from the Committee on Agriculture and Forestry with amendments, on page 1, line 4, after the word "amended", to strike out "(1) by inserting '(a)' after the section number; (2) by inserting the word 'knowingly' before the word 'violates', and (3) by adding at the end thereof a new subsection" and insert "to read"; after line 7, to insert:

"(a) Any person who knowingly, or as a result either of gross negligence or of a failure to make a reasonable effort to inform himself of the pertinent facts, violates any provision of this act or the rules and regulations made and promulgated thereunder shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall pay a fine of not more than \$1,000, for the first offense, and upon conviction for each subsequent offense not more than \$2,000."

On page 2, after line 10, to insert:

SEC. 2. Section 204 of the Federal Seed Act (7 U. S. C. 1574) is amended to read as follows:

"SEC. 204. The use of a disclaimer or non-warranty clause in any invoice, advertising, labeling, or written, printed, or graphic matter, pertaining to any seed shall not constitute a defense, or be used as a defense in any way, in any prosecution or other proceeding brought under the provisions of this act, or the rules and regulations made and promulgated thereunder."

On page 3, after line 19, to insert:

SEC. 3. Section 412 of the Federal Seed Act (7 U. S. C. 1602) as amended to read as follows:

"SEC. 412. The institution of any one of the proceedings provided for in sections 405, 406, 409, 410, and 411 shall not bar institution of any of the others, except that action shall not be instituted under both subsections 406 (a) and (b) for the same cause of action. Nothing in this act shall be construed as requiring the Secretary of Agriculture to recommend prosecution, or institution of civil penalty proceedings, libel proceedings, cease-and-desist proceedings, or proceedings for the enforcement of a cease-and-desist order, for minor violations of this act or the rules and regulations made and promulgated thereunder whenever he believes that the public interest will be adequately served by suitable written notice or warning."

And on page 3, after line 9, to insert:

SEC. 4. The amendments made by this act shall be applicable only with respect to violations occurring after the enactment of this act.

So as to make the bill read:

Be it enacted, etc., That section 406 of the Federal Seed Act (7 U. S. C. 1956) is amended to read as follows:

"(a) Any person who knowingly, or as a result either of gross negligence or of a failure to make a reasonable effort to inform himself of the pertinent facts, violates any provision of this act or the rules and regulations made and promulgated thereunder shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall pay a fine of not more than \$1,000, for the first offense, and upon conviction for each subsequent offense not more than \$2,000.

"(b) Any person who violates any provision of this act or the rules and regulations made and promulgated thereunder shall forfeit to the United States a sum, not less

than \$25 or more than \$500, for each such violation, which forfeiture shall be recoverable in a civil suit brought in the name of the United States."

SEC. 2. Section 204 of the Federal Seed Act (7 U. S. C. 1574) is amended to read as follows:

"SEC. 204. The use of a disclaimer or non-warranty clause in any invoice, advertising, labeling, or written, printed, or graphic matter, pertaining to any seed, shall not constitute a defense, or be used as a defense in any way, in any prosecution or other proceeding brought under the provisions of this act, or the rules and regulations made and promulgated thereunder."

SEC. 3. Section 412 of the Federal Seed Act (7 U. S. C. 1602) is amended to read as follows:

"SEC. 412. The institution of any one of the proceedings provided for in sections 405, 406, 409, 410, and 411 shall not bar institution of any of the others, except that action shall not be instituted under both subsections 406 (a) and (b) for the same cause of action. Nothing in this act shall be construed as requiring the Secretary of Agriculture to recommend prosecution, or institution of civil penalty proceedings, libel proceedings, cease-and-desist proceedings, or proceedings for the enforcement of a cease-and-desist order, for minor violations of this act or the rules and regulations made and promulgated thereunder whenever he believes that the public interest will be adequately served by suitable written notice or warning."

SEC. 4. The amendments made by this act shall be applicable only with respect to violations occurring after the enactment of this act.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to amend the Federal Seed Act."

CLARIFICATION OF OWNERSHIP OF CERTAIN LANDS WITHIN THE STANISLAUS NATIONAL FOREST, CALIF.

The Senate proceeded to consider the bill (H. R. 374) to authorize the adjustment and clarification of ownership of certain lands within the Stanislaus National Forest, Tuolumne County, Calif., and for other purposes.

HOW PUBLIC FUNDS WERE EXPENDED UNDER "ORAL GUIDELINES"

Mr. O'MAHONEY. Mr. President, I wish to take advantage of the presentation of the bill to invite the attention of the Senate to a committee print of the Senate Committee on Interior and Insular Affairs on the subject of relief of unemployment in coal-mining areas and the manner in which public funds were expended under oral guidelines laid down by Mr. Harold Stassen.

Early this year it became my duty, as chairman of the Subcommittee on Oil, Gas, and Coal of the Interior and Insular Affairs Committee to make an investigation of what had been done by foreign aid, now the ICA, with respect to the expenditure of funds appropriated for foreign aid by the Congress and which at the time was under the administration of Mr. Harold Stassen.

The story began in September 1954. On the 21st day of September, 1954, Mr. Stassen announced, in Denver, that a program seeking to relieve unemployment in distressed coal fields in the United States by the expenditure of foreign-aid funds had been approved by the President. This story was printed in the New York Times of September 22, 1954. It appears on page 15 of the committee print of the report, from which I quote this statement:

The coal program, Mr. Stassen said at the Lowry Air Force base headquarters of the President, was an example of the President's directive of "fitting together the needs overseas with the economic situation at home." He estimated that 75 percent of the \$3.5 billion his agency would use in the present fiscal year would be spent inside the United States.

Then the story continued:

The coal purchases will be made as follows—

This, of course, was information given out by Mr. Stassen—

From Kentucky, West Virginia, and Pennsylvania, 2 million tons each; from Illinois, 1,500,000 tons; and 2,500,000 tons generally distributed through other coal producing regions.

Mr. President, nothing like that amount of coal was purchased.

The record shows that less than 2 million tons, as a whole, were purchased. I have no complaint about the economy of the expenditure, but I have a very serious complaint with respect to the redress and disorderly manner in which the program of coal purchases was carried on. It was represented by Mr. Stassen and his organization that the program was being conducted under a directive by the President. Through the Committee on Foreign Relations, I made a search of the directives and found that no directive at all was issued by the President with respect to the purchase of coal for unemployment purposes.

A directive was issued in December 1954, after the election, for the purchase of coal for foreign use in Korea and elsewhere. Nevertheless, it seems to me that with the evidence showing that there had been correspondence between Mr. Stassen and the Secretary of Labor, and that the country had been led to believe that expenditures would be made in the coal regions, which were in a sad situation with respect to unemployment, we should find out how and under what sort of rules and regulations former Governor Stassen undertook the expenditure of this fund. It was charged unemployment was not a factor in deciding where the purchases were to be made.

It is with the greatest difficulty that I was able to persuade anyone in the executive branch of the Government to express any views about the matter or to give the Senate any information. Finally, I wrote a letter to Mr. D. A. FitzGerald, Acting Director of the International Cooperation Administration, under date of November 18, 1955. I received no response to that letter—probably because Mr. Hollister was not in the city—until January 10, 1956.

In the course of the letter, in response to the principal question which I submitted to Mr. FitzGerald in November, this was the answer that Mr. Hollister gave me:

After discussion with his staff, Governor Stassen issued oral guidelines for this program. It is my understanding that these instructions provided that—

1. Such action as is feasible, consistent with the provisions of the Mutual Security Act and related legislation, will be taken to increase the export of coal to friendly countries.

2. In view of fund limitations, and in order to avoid diversion of funds from other essential purposes, this should be accomplished through increasing commercial exports using the minimum of agency funds.

3. For planning purposes, the projected rate of export of 14 million tons is to be increased by 10 million tons per annum.

4. Purchases are to be made from these coal mining areas by the Secretary of Labor.

5. Agency-financed purchases are to be authorized in such a manner as to permit the foreign user to receive the type and quality of coal of his choosing.

These five paragraphs are only the interpretation of Mr. Hollister in 1956 of oral instructions given by Mr. Stassen in 1954.

The PRESIDING OFFICER. The time of the Senator from Wyoming has expired.

Mr. O'MAHONEY. Mr. President, I ask unanimous consent that the document entitled "Relief of Unemployment in Coal Mining Areas" may be printed at this point in the RECORD.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

RELIEF OF UNEMPLOYMENT IN COAL-MINING AREAS

FOREWORD

Acting upon the receipt of numerous letters and complaints with respect to the administration of what had been announced by the Honorable Harold E. Stassen, Director of FOA, on September 21, 1954, as a broad-scale program to relieve critical unemployment in the coal-mining areas of the United States by the purchase of 10 million tons of coal at an estimated cost of \$150 million the undersigned, as chairman of the Subcommittee on Oil, Gas, and Coal, with cooperation of committee staff members, undertook to obtain detailed information with respect to the initiation and administration of the program. There is submitted herewith the essential information gathered by our committee indicating that, although the program was announced by Director Stassen at the Lowry Field, Denver, headquarters of President Eisenhower on September 21, 1954, no specific directive was issued by the President at any time. It is true that on December 9, 1954, in a classified directive under the Mutual Security Act, the President did authorize the expenditure of funds for the purchase of coal for export, but nothing was said with respect to the purchase of this coal for the relief of unemployment.

At the expiration of the fiscal year on June 30, 1955, there had been purchased for export only 1,130,080 tons, and not the 10 million tons announced by Director Stassen, and there had been expended \$34.2 million. The information afforded with respect to the purchase and shipment of coal indicated that not unemployment but export to foreign countries, as outlined in the President's directive, was the only criterion for the program which, according to the formal letter of Mr. John B. Hollister, Director of the Inter-

84TH CONGRESS
2D SESSION

S. 1688

IN THE HOUSE OF REPRESENTATIVES

MARCH 27, 1956

Referred to the Committee on Agriculture

AN ACT

To amend the Federal Seed Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 406 of the Federal Seed Act (7 U. S. C. 1956)
4 is amended to read as follows:

5 “(a) Any person who knowingly, or as a result either of
6 gross negligence or of a failure to make a reasonable effort
7 to inform himself of the pertinent facts, violates any provision
8 of this Act or the rules and regulations made and promul-
9 gated thereunder shall be deemed guilty of a misdemeanor
10 and, upon conviction thereof, shall pay a fine of not more
11 than \$1,000, for the first offense, and upon conviction for
12 each subsequent offense not more than \$2,000.”

1 “(b) Any person who violates any provision of this
2 Act or the rules and regulations made and promulgated
3 thereunder shall forfeit to the United States a sum, not less
4 than \$25 or more than \$500, for each such violation, which
5 forfeiture shall be recoverable in a civil suit brought in the
6 name of the United States.”

7 SEC. 2. Section 204 of the Federal Seed Act (7
8 U. S. C. 1574) is amended to read as follows:

9 “SEC. 204. The use of a disclaimer or nonwarranty
10 clause in any invoice, advertising, labeling, or written,
11 printed, or graphic matter, pertaining to any seed shall not
12 constitute a defense, or be used as a defense in any way, in
13 any prosecution or other proceeding brought under the pro-
14 visions of this Act, or the rules and regulations made and
15 promulgated thereunder.”

16 SEC. 3. Section 412 of the Federal Seed Act (7
17 U. S. C. 1602) is amended to read as follows:

18 “SEC. 412. The institution of any one of the proceedings
19 provided for in sections 405, 406, 409, 410, and 411 shall
20 not bar institution of any of the others, except that action
21 shall not be instituted under both subsections 406 (a) and
22 (b) for the same cause of action. Nothing in this Act shall
23 be construed as requiring the Secretary of Agriculture to
24 recommend prosecution, or institution of civil penalty pro-
25 ceedings, libel proceedings, cease-and-desist proceedings, or

1 proceedings for the enforcement of a cease-and-desist order,
2 for minor violations of this Act or the rules and regulations
3 made and promulgated thereunder whenever he believes that
4 the public interest will be adequately served by suitable
5 written notice or warning.”

6 SEC. 4. The amendments made by this Act shall be
7 applicable only with respect to violations occurring after the
8 enactment of this Act.

Passed the Senate March 26, 1956.

Attest:

FELTON M. JOHNSTON,

Secretary.

84TH CONGRESS
2D SESSION

S. 1688

AN ACT

To amend the Federal Seed Act.

MARCH 27, 1956

Referred to the Committee on Agriculture

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued
For actions of

June 13, 1956
June 12, 1956
84th-2nd, No. 97

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HIGHLIGHTS: House debated conference report on bill to provide Federal assistance to small irrigation projects. House received conference report on Commerce appropriation bill. Senate subcommittee ordered reported bills to establish town-sites from national forests, establish forest experiment station in N. Dak., and broaden present authority for use and occupancy of land within national forests. Senate committee ordered reported bill to transfer Puerto Rican hurricane relief funds to USDA. House committee ordered reported bill to amend Public Law 480. House subcommittee ordered reported bill to provide civil penalties for violations of Federal Seed Act.

SENATE

1. THE AGRICULTURE AND FORESTRY SUBCOMMITTEE on Soil Conservation and Forestry ordered reported to the full committee the following bills: (p. D609)
 - H.R. 426, without amendment, providing for the establishment of townsites from national forests or land administered under the Bankhead-Jones Farm Tenant Act.
 - S. 2900, without amendment, providing for the establishment and maintenance of a forest experiment station in N. Dak.
 - S. 2216, with amendment, to amend the act of March 4, 1915, to permit the use and occupancy of national forest lands for industrial and commercial purposes, and by States or political subdivisions for constructing facilities for education or other public uses.
 - S. 3133, with amendment, providing for the conveyance of certain real property to the city of Boise, Idaho.
- The "Daily Digest" states that "the subcommittee agreed to hold hearings at dates in the near future on S. 1359, regarding consent of congressional committees for sale of certain lands acquired by U. S. under title III of Bankhead-Jones Farm Tenant Act, and S. 3727, to amend the Watershed Protection and Flood Prevention Act." p. D609

2. THE INTERIOR AND INSULAR AFFAIRS COMMITTEE ordered reported the following bills:

(p. D610)

H.R. 8385, without amendment, to transfer to the Secretary of Agriculture the responsibilities relating to Puerto Rican hurricane relief loans.

S. 3512, without amendment, to permit desert-land entries on disconnected tracts of lands which, in the case of any one entryman, form a compact unit and do not exceed in the aggregate 320 acres.

S. 3665, with amendment, to allow a homesteader settling on unsurveyed public land in Alaska to make single final proof prior to survey of the lands.

S. 3743, with amendment, to transfer certain land from the Lassen National Forest to the Lassen Volcanic National Park, Calif.

HOUSE

3. APPROPRIATIONS. Received the conference report on H.R. 10899, the Commerce Department and related agencies appropriation bill for 1957 (H. Rept. 2344). pp. 9070, 9105

Rep. Rabaut requested and received remission for the conference committee to file a report on H.R. 10003, the D. C. appropriation bill for 1957, by not later than Tues., June 12 midnight. p. 9067

4. RECLAMATION. Began debate on the conference report on H.R. 5881, to provide Federal assistance to local irrigation districts, water districts, and other public agencies in the construction of small projects, but deferred a vote until Wed., June 13. pp. 9068, 9071

5. FOREIGN TRADE. The Agriculture Committee ordered reported H.R. 11708, to amend the Agricultural Trade Development and Assistance Act of 1954, after a consideration of H.R. 11403 and H.R. 11443, similar bills. p. D611

Rep. Bailey criticized a proposal to finance surveys on the effect of tariff policies on domestic industries by Federal funds, and inserted a letter questioning the completeness of a Minnesota survey of this nature. p. 9103

6. SEED. The Equipment, Supplies, and Manpower Subcommittee of the Agriculture Committee ordered reported to the full committee S. 1688, to remove the criminal penalty for inadvertent violations of the Federal Seed Act and to prescribe civil penalties for such violations of the Act. ~~p. D611~~

7. EXTENSION WORK. Rep. Dixon paid tribute to the 24th National 4-H Club Camp and commended the 4-H clubs for their activities. p. 9092

8. DAIRYING. Rep. Dixon cited the publication, Dairy Situation, for indicating that cash receipts from dairy products would be above the 1955 level. p. 9092

9. POULTRY. Rep. Rogers, Mass., criticized the importation of certain poultry products from Argentina and Canada as being detrimental to Mass. poultry producers. p. 9094

10. EDUCATION. Received from HEW a proposed bill "to encourage and assist the States in the establishment of State Committees on Education Beyond the High School"; to the Education and Labor Committee. p. 9105

1. FORESTRY. The Interior and Insular Affairs Committee reported without amendment H.R. 9974, to authorize the cutting of timber, the manufacture and sale of lumber, and the preservation of the forests on the Menominee Indian Reservation in Wis. (H. Rept. 2331). p. 9105

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued June 22, 1956
For actions of June 21, 1956
84th-2nd, No. 103

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Fisheries.....2	REA.....12	Watersheds.....1

HIGHLIGHTS: House committee ordered reported bills to decrease review period for watershed projects; continue ACP; release certain Tongass Forest receipts from escrow; extend school milk program to certain institutions; authorize land purchase in Cache National Forest; permit certain cotton futures purchasing; approve Middle Atlantic Forest fire protection compact; prescribe the civil penalties for violations of Federal Seed Act; and permit certain USDA-State-local employees exchanges. House committee ordered reported fisheries bill. House committee ordered reported bill to provide for reimbursement to Post Office of registration fees on Government mail. Conferees agreed to file conference report on roads bill. Senate confirmed nomination of Hamil as REA Administrator.

HOUSE

1. THE AGRICULTURE COMMITTEE ordered reported the following bills: p. D662
 - H. R. 11873, to decrease the Congressional review period of projects under the Watershed Protection and Flood Prevention Act from 45 days to 15 days.
 - H. R. 9339, to authorize the exchange of certain lands within Chattahoochee National Forest, Ga.
 - H. R. 11375, to further extend the special school milk program to certain institutions for the care and training of children, whether or not under-privileged.
 - H. R. 609, to extend the provisions of the Federal Import Milk Act to Alaska.
 - H. R. 8321, to further extend the period of Federal administration of the ACP program from Jan. 1, 1957 to Jan. 1, 1959.
 - H. R. 9678, to provide for the transfer of the Baronof Castle site (formerly research land) to Sitka, Alaska.
 - H. R. 8898, to authorize the purchase of additional lands within the Cache National Forest, Utah.
 - H. R. 9333, to give to certain consuming processors of cotton the privilege of buying cotton futures contracts in certain cases.
 - H. R. 8817, to provide for the transfer of certain USDA lands to Corbin, Ky.

S. 3032, to approve the proposed Middle Atlantic Interstate Forest Fire Protection Compact.

S. 2517, to release from escrow certain timber sale receipts in the Tongass National Forest.

S. 1688, to remove the criminal penalty for inadvertent violations of the Federal Seed Act and to prescribe civil penalties for such violations of the Act.

S. 1915, to permit the exchange of employees of the USDA and employees of State-local political subdivisions or educational institutions.

2. FISHERIES. The Merchant Marine and Fisheries Committee ordered reported H. R. 11570, to establish a sound and comprehensive national policy with respect to fisheries and wildlife and create and establish in the Interior Department, the office of Undersecretary of Fisheries and Wildlife. p. D663
3. POSTAL SERVICE. The Post Office and Civil Service Committee ordered reported S. 1871, to provide for the reimbursement to the Post Office Department of fees for registration of Government mail. p. D664
4. ROADS. The conferees agreed to file a conference report on H. R. 10660, the road construction and revenue bill. p. D665
5. PUBLIC DEBT. Passed without amendment H. R. 11740, to increase the public debt limit by \$3 billion for the fiscal year 1957. p. 9716
6. DAYLIGHT-SAVING TIME. The D. C. Committee ordered reported S. 3295, to authorize extension of the period of daylight-saving time in D. C. until October. p. D662
7. TRADE FAIRS. The Foreign Affairs Committee ordered reported H. J. Res. 604, to authorize the President to invite the States and foreign countries to participate in the U. S. World Trade Fair of 1957. p. D663
8. PERSONNEL. The Post Office and Civil Service Committee reported without amendment S. 1542, to authorize an allowance for civilian officers and employees of the Government who are notaries public (H. Rept. 2410). p. 9720
9. FOREIGN AID. Rep. Johansen criticized the continuation of foreign aid and urged a reappraisal of the entire foreign aid program. p. 9717
10. LEGISLATIVE PROGRAM. Rep. McCormack announced the following schedule for the week of June 25: Mon., D. C. bills; the balance of the week, the veterans' compensation increase bill, the Federal aid school construction bill, the conference reports on the public works appropriation bill, the road bill, and the Labor-HEW appropriation bill. p. 9715
11. ADJOURNED until Mon., June 25. p. 9719

SENATE

12. NOMINATIONS. Confirmed the nominations of David A. Hamil to be REA Administrator; and Glenn A. Boger to be a member of the Federal Farm Credit Board. pp. 9660, 9709
13. APPROPRIATIONS. Began debate on the Defense Department appropriation bill. pp. 9674, 9694, 9697

June 26, 1916

15. DEFENSE PRODUCTION. Received the conference report on H. R. 9852, to extend the Defense Production Act of 1950 (H. Rept. 2486). pp. 9972, 9975 The conferees deleted the House provision that private individuals appointed to the Executive Reserve would have to file a financial statement in the Federal Register, and expressed approval of continued industrial dispersal.
16. AGRICULTURE Committee reported the following bills: p. 9975
- H. R. 8817, with amendment, to provide for the transfer of certain USDA / lands to Corbin, Ky. (H. Rept. 2464).
- H. R. 9339, without amendment, to authorize the exchange of certain lands of the U. S. in Union County, Ga. for lands within the Chattahoochee National Forest, Ga. (H. Rept. 2465).
- H. R. 11873, without amendment, to decrease the Congressional review period of projects under the Watershed Protection and Flood Prevention Act from 45 days to 15 days. (H. Rept. 2470).
- S. 1915, with amendment, to permit the exchange of employees of the USDA and employees of State-local political subdivisions and educational institutions (H. Rept. 2471).
- H. R. 11375, without amendment, to further extend the special school milk program to certain institutions for the care and training of children, whether or not underprivileged (H. Rept. 2472).
- S. 1668, without amendment, to remove the criminal penalty for inadvertent violations of the Federal Seed Act and to prescribe civil penalties for such violations of the Act (H. Rept. 2473).
- H. R. 9333, with amendment, to give to certain consuming processors of cotton the privilege of buying cotton futures contracts in certain cases (H. Rept. 2478).
17. RECLAMATION; ELECTRIFICATION. The Interior and Insular Affairs Committee ordered reported H. R. 4719, to authorize the construction, operation, and maintenance of the Hells Canyon Dam on the Snake River between Idaho and Oregon. p. D686
18. TRANSPORTATION. The Transportation and Communications Subcommittee of the Interstate and Foreign Commerce Committee ordered reported to the full committee H. R. 525, which would amend Sec. 22 of the Interstate Commerce Act by eliminating authorization for handling property free or at reduced rates for the U. S. and transporting persons for the U. S. Government free or at reduced rates. p. D686
19. MARKETING. The "Daily Digest" states that the Rules Committee granted a rule for the consideration of H. R. 4054, to provide a system of mortgage insurance to municipal and other political subdivisions of the States, to be administered by the USDA, for the expansion of public marketing of perishable commodities. p. D688
20. COMMODITY CREDIT CORPORATION. The "Daily Digest" states that the Rules Committee granted a rule for the consideration of H. R. 11132, to increase the borrowing authority of CCC. p. D688
21. LABOR STANDARDS. The Education and Labor Committee reported without amendment H. R. 11799, amending the Fair Labor Standards Act relative to minimum wages in the Samoa, Wake and Guam islands (H. Rept. 2469). p. 9975

ITEMS IN APPENDIX

22. BUDGET; EXPENDITURES. Rep. Hoffman stated that he had always endeavored to bring about greater efficiency and economy in the Government's activities "But that we will never get lower taxes, a balanced budget, until the people accept a share of the responsibility for Federal expenditures." p. A5026
23. RESEARCH; FRUITS. Rep. Vursell inserted a radio broadcast he recently made pointing out the benefits that have been brought to the orangegrowers of the State of Florida, as the result of the work of research scientists in this Department. p. A5027
24. WATER POLLUTION. Rep. Burnside inserted a newspaper article in support of H. R. 9540, to extend and strengthen the Water Pollution Control Act. p. A5028
25. FOREIGN AID. Rep. Bentley inserted a newspaper article, "Foreign Aid's Failures Prove Cut Long Overdue." p. A5044
26. DISTRESSED AREAS. Rep. Price inserted an editorial commending Sen. Douglas and Rep. Gray for their support of the bill which would establish an Area Development Administration to assist distressed areas. p. A5047

BILLS INTRODUCED

27. CONTRACTS. H. R. 11947, by Rep. Cooper and H. R. 11948, by Rep. Reed, to extend and amend the Renegotiation Act of 1951; to Ways and Means Committee.
28. LANDS. H. R. 11950, by Rep. Dawson (by request), to provide for the adjustment of the legislative jurisdiction exercised by the United States over land in the several States used for Federal purposes; to Government Operations Committee.
29. SOIL BANK. H. R. 11958, by Rep. Poage, to amend the acreage reserve provisions of the Soil Bank Act to permit inclusion of acreage up to 30 days prior to harvest; to Agriculture Committee.
30. WATER. H. R. 11962, by Rep. Steed, to provide for Federal participation and cooperation with States and local interests in developing water supplies for domestic, municipal, industrial, and other purposes; to Public Works Committee.
31. FLAGS. H. R. 11963, by Rep. Tumulty, to amend the law in force with respect to the display and use of the flag of the United States, and for other purposes; to Judiciary Committee.
32. PROPERTY. H. R. 11970, by Rep. Willis, to amend the Internal Revenue Act of 1954 relative to nonrecognition of gain from involuntary conversion of certain real property used for agricultural purposes; to Ways and Means Committee.

PRINTED HEARINGS RECEIVED IN THIS OFFICE

33. COMMODITY EXCHANGES. Futures Trading. Part II. Onions. House Agriculture Committee.
34. FARM PROGRAM. General Farm Legislation. Part II. House Agriculture Committee.

AMENDMENTS TO FEDERAL SEED ACT

JUNE 26, 1956.—Referred to the House Calendar and ordered to be printed

Mr. COOLEY, from the Committee on Agriculture, submitted the following

R E P O R T

[To accompany S. 1688]

The Committee on Agriculture, to whom was referred the bill (S. 1688) to amend the Federal Seed Act, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

This bill would amend the penalty provisions of the Federal Seed Act in two respects:

(1) Require that in order to constitute a criminal offense seed misbranding must be done "knowingly, or as a result of either gross negligence or failure to make a reasonable effort" to determine pertinent facts and,

(2) Provide a civil penalty payable to the United States for any violation of the act or regulations, whether with or without intention.

Hearings were held on H. R. 6201 by Mr. Dague, H. R. 6203 by Mrs. Knutson, and H. R. 6219 by Mr. Lovre, all similar to S. 1688.

At the hearings, the measure was supported by the Department of Agriculture and by spokesmen for various associations of seed dealers. Following is the text of the Senate report on the bill:

This bill would remove the criminal penalty for inadvertent violation of the Federal Seed Act where no criminal intent is present, and provides a civil penalty for such violation. Under existing law shippers of seed may be subject to criminal penalty and the stigma attached thereto if they fail to make a proper analysis and certification of the seed shipped. Your committee feels that this is unnecessarily strict. The language of the bill was worked out by your committee with the seed trade and the Department of Agriculture, and is satisfactory to all.

Sections 2, 3, and 4 of the bill, which would be added by committee amendments, contain technical amendments re-

quired as a result of the substantive changes made by the first section of the bill.

The committee amendments are fully explained by the attached letters from the Department of Agriculture.

DEPARTMENT OF AGRICULTURE,
Washington 25, D. C., June 16, 1955.

HON. ALLEN J. ELLENDER,
*Chairman, Committee on Agriculture and Forestry,
United States Senate.*

DEAR SENATOR ELLENDER: This is in reply to your letter of April 15 requesting a report on S. 1688, a bill to amend section 406 of the Federal Seed Act.

This Department recommends that the bill be passed, provided it is changed as suggested below.

The effect of the proposed amendment is twofold. The insertion of the word "knowingly" in the proposed subsection 406 (a) would make it necessary to prove a measure of intent to establish a violation of the act, and the new subsection 406 (b) authorizes a civil action for the assessment of a penalty, in which case it would not be necessary to establish intent.

The necessity to prove that a violation was committed knowingly under the Importation of Adulterated Seeds Act of 1912, as amended, was one of the principal causes for the repeal of this act and its supersedure by the Federal Seed Act in 1939. The word "knowingly" was deliberately omitted from the Federal Seed Act. However, prosecutions are not recommended under this act unless the Department is believed to have evidence of knowledge, gross negligence, or disregard of the requirements of the act, or the regulations thereunder. The Department believes that criminal action should be available in these three classes of cases and suggests that if section 406 is to be amended to require some element of knowledge or intent for criminal prosecutions, the amendment should specifically provide for prosecution in such classes of cases. It is suggest that in that event, the provisions of section 406 be amended to read as follows:

"SEC. 406. (a) Any person who knowingly, or as a result of gross negligence, or as a result of disregard of the requirements of this Act or the rules and regulations made and promulgated thereunder, violates any provision of this Act or such rules and regulations shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall pay a fine of not more than \$1,000, for the first offense, and upon conviction for each subsequent offense not more than \$2,000."

The Department does not object to the proposed new subsection 406 (b) providing for civil penalties, although it is not known how effective a deterrent to violations the civil penalties may prove to be.

It is recommended that, if proposed subsection 406 (b) is enacted into law, incidental changes be made in sections 204

and 412 of the act so that these sections would read, respectively, as follows:

"SEC. 204. The use of a disclaimer or nonwarranty clause in any invoice, advertising, labeling, or written, printed, or graphic matter, pertaining to any seed shall not constitute a defense, or be used as a defense in any way, in any prosecution or other proceeding brought under the provisions of this Act, or the rules and regulations made and promulgated thereunder.

"SEC. 412. The institution of any one of the proceedings provided for in sections 405, 406, 409, 410, and 411 shall not bar institution of any of the others, except that action shall not be instituted under both subsections 406 (a) and (b) for the same cause of action. Nothing in this Act shall be construed as requiring the Secretary of Agriculture to recommend prosecution, or institution of civil penalty proceedings, libel proceedings, cease-and-desist proceedings, or proceedings for the enforcement of a cease-and-desist order, for minor violations of this Act or the rules and regulations made and promulgated thereunder whenever he believes that the public interest will be adequately served by suitable written notice or warning."

It is recommended that a savings clause be included in the bill providing that the amendments made by it would apply only with respect to violations occurring after the date of enactment, so as to avoid questions concerning prosecutions of offenses previously committed.

These amendments, if approved, are not expected to increase the cost of administration of the Federal Seed Act.

The Department is considering recommending the enactment of various other amendments of the Federal Seed Act in a separate bill which it is anticipated will be sent to the Congress in the near future. That bill would make certain changes in section 204 not reflected in the foregoing proposal concerning that section.

In view of the subsequent request that this report be submitted today we are not awaiting advice from the Bureau of the Budget regarding the relationship of this proposed legislation to the program of the President.

Sincerely yours,

EARL L. BUTZ, *Acting Secretary.*

DEPARTMENT OF AGRICULTURE,
Washington, D. C., November 4, 1955.

HON. ALLEN J. ELLENDER,
Chairman, Committee on Agriculture and Forestry,
United States Senate.

DEAR SENATOR ELLENDER: On June 16, 1955, this Department reported, at the request of your committee, on S. 1688, 84th Congress, a bill to amend section 406 of the Federal Seed Act (7 U. S. C. 1596).

The report suggested that certain changes be made in the bill. It subsequently developed that the proposed changes

were not acceptable in some respects to the seed trade regulated by the act, and discussions were had with members and counsel of your committee and the seed trade in an effort to draft language that would be agreeable to all concerned.

On September 14, 1955, Mr. Harker Stanton, counsel for your committee, inquired whether this Department would object to a bill that would amend the present provisions of section 406 of the act to read as follows:

"(a) Any person who knowingly, or as a result either of gross negligence or of a failure to make a reasonable effort to inform himself of the pertinent facts, violates any provision of this Act or the rules and regulations made and promulgated thereunder shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall pay a fine of not more than \$1,000, for the first offense, and upon conviction for each subsequent offense not more than \$2,000."

We understand that proposed subsection 406 (b) of the act as set forth in S. 1688 would be retained in the bill and the amendments of sections 204 and 412 of the act and a savings clause as proposed in our report on S. 1688 would be included in the bill. Under such circumstances this Department would not object to the proposed subsection 406 (a) as set forth above.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

TRUE D. MORSE,
Acting Secretary.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, and existing law in which no change is proposed is shown in roman):

FEDERAL SEED ACT OF 1939, AS AMENDED

* * * * *

SEC. 204. The use of a disclaimer or nonwarranty clause in any invoice, advertising, labeling, or written, printed, or graphic matter, pertaining to any seed shall not constitute a defense, or be used as a defense in any way, in any prosecution¹, or in any proceeding for confiscation of seeds,² *or other proceeding* brought under the provisions of this Act, or the rules and regulations made and promulgated thereunder.

* * * * *

SEC. 406. (a) Any person who ¹violates any provision of this Act or ²the rules and regulations made and promulgated thereunder³ *knowingly, or as a result either of gross negligence or of a failure to make a reasonable effort to inform himself of the pertinent facts, violates any provision of this Act or the rules and regulations made and promulgated thereunder* shall be deemed guilty of a misdemeanor and, upon con-

viction thereof, shall pay a fine of not more than \$1,000, for the first offense, and upon conviction for each subsequent offense not more than \$2,000.

(b) *Any person who violates any provision of this Act or the rules and regulations made and promulgated thereunder shall forfeit to the United States a sum, not less than 25 or more than \$500, for each such violation, which forfeiture shall be recoverable in a civil suit brought in the name of the United States.*

* * * * *

SEC. 412. The institution of any one of the proceedings provided for in sections 405, 406, 409, 410, and 411, **[or criminal prosecution under section 406]** shall not bar institution of any of the others, *except that action shall not be instituted under both subsections 406 (a) and (b) for the same cause of action.* **[However, nothing]** *Nothing in this Act shall be construed as requiring the Secretary of Agriculture to recommend prosecution [or institution of], or institution of civil penalty proceedings, libel proceedings, cease-and-desist proceedings, or proceedings for the enforcement of a cease-and-desist order, for minor violations of this Act or the rules and regulations made and promulgated thereunder whenever he believes that the public interest will be adequately served by suitable written notice or warning.*



House Calendar No. 253

84TH CONGRESS
2D SESSION

S. 1688

[Report No. 2473]

IN THE HOUSE OF REPRESENTATIVES

MARCH 27, 1956

Referred to the Committee on Agriculture

JUNE 26, 1956

Referred to the House Calendar and ordered to be printed

AN ACT

To amend the Federal Seed Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 406 of the Federal Seed Act (7 U. S. C. 1956)
4 is amended to read as follows:
5 “(a) Any person who knowingly, or as a result either of
6 gross negligence or of a failure to make a reasonable effort
7 to inform himself of the pertinent facts, violates any provision
8 of this Act or the rules and regulations made and promul-
9 gated thereunder shall be deemed guilty of a misdemeanor
10 and, upon conviction thereof, shall pay a fine of not more
11 than \$1,000, for the first offense, and upon conviction for
12 each subsequent offense not more than \$2,000.”

1 “(b) Any person who violates any provision of this
2 Act or the rules and regulations made and promulgated
3 thereunder shall forfeit to the United States a sum, not less
4 than \$25 or more than \$500, for each such violation, which
5 forfeiture shall be recoverable in a civil suit brought in the
6 name of the United States.”

7 SEC. 2. Section 204 of the Federal Seed Act (7
8 U. S. C. 1574) is amended to read as follows:

9 “SEC. 204. The use of a disclaimer or nonwarranty
10 clause in any invoice, advertising, labeling, or written,
11 printed, or graphic matter, pertaining to any seed shall not
12 constitute a defense, or be used as a defense in any way, in
13 any prosecution or other proceeding brought under the pro-
14 visions of this Act, or the rules and regulations made and
15 promulgated thereunder.”

16 SEC. 3. Section 412 of the Federal Seed Act (7
17 U. S. C. 1602) is amended to read as follows:

18 “SEC. 412. The institution of any one of the proceedings
19 provided for in sections 405, 406, 409, 410, and 411 shall
20 not bar institution of any of the others, except that action
21 shall not be instituted under both subsections 406 (a) and
22 (b) for the same cause of action. Nothing in this Act shall
23 be construed as requiring the Secretary of Agriculture to
24 recommend prosecution, or institution of civil penalty pro-
25 ceedings, libel proceedings, cease-and-desist proceedings, or

1 proceedings for the enforcement of a cease-and-desist order,
2 for minor violations of this Act or the rules and regulations
3 made and promulgated thereunder whenever he believes that
4 the public interest will be adequately served by suitable
5 written notice or warning."

6 SEC. 4. The amendments made by this Act shall be
7 applicable only with respect to violations occurring after the
8 enactment of this Act.

Passed the Senate March 26, 1956.

Attest:

FELTON M. JOHNSTON,

Secretary.

84TH CONGRESS
2D SESSION

S. 1688

[Report No. 2473]

AN ACT

To amend the Federal Seed Act.

MARCH 27, 1956

Referred to the Committee on Agriculture

JUNE 26, 1956

Referred to the House Calendar and ordered to be
printed

July 2, 1956

SURPLUS COMMODITIES.

16. S. 3903, to increase the amount under title 1 of the Agricultural Trade Development and Assistance Act, was made the unfinished business. pp. 10440, 10485
17. CCC BORROWING POWER. Sen. Ellender urged prompt consideration of S. 3820, to increase the borrowing power of CCC. p. 10440

HOUSE

18. RECLAMATION. Conferees were appointed on S. 1622, to authorize the Secretary of the Interior to make payment for certain improvements located on public lands in the Rapid Valley unit, S. Dak., of the Missouri River Basin project. Senate conferees were appointed on June 29. p. 10499
19. WATERSHEDS. Passed without amendment H. R. 11873, to decrease the Congressional review period of projects under the Watershed Protection and Flood Prevention Act from 45 days to 15 days. p. 10515
20. PENALTY MAIL. Passed as reported S. 1871, to extend the penalty mail Act to Extension Directors and Experiment Stations. p. 10509
21. POSTAL RATES. Agreed to a resolution providing for the consideration of H. R. 11380, to readjust postal rates and to establish a congressional policy for the determination of postal rates. p. 10546
22. FOREIGN AID. Conferees were appointed on H. R. 11356, the mutual security bill. Senate conferees were appointed June 29. p. 10533
23. LAND TRANSFERS. Passed as reported H. R. 8817, to provide for the transfer of certain lands to Corbin, Ky. p. 10514
The Agriculture Committee reported without amendment H. R. 9678, to provide for the transfer of the Baronof Castle site (formerly research land) to Sitka, Alaska (H. Rept. 2571). p. 10561
The Forests Subcommittee of the Agriculture Committee ordered reported to the full committee H. R. 11895, to authorize the interchange of lands between the USDA and the military departments of the Defense Department. p. D726
24. FORESTRY. Passed without amendment H. R. 9339, to authorize the exchange of certain lands in Union County, Ga. for lands within the Chattahoochee National Forest, Ga. p. 10514
The Agriculture Committee reported without amendment S. 2517, to release certain Tongass National Forest receipts from escrow (H. Rept. 2568). p. 10561
25. MILK. Passed without amendment H. R. 11375, to further extend the special school milk program to certain institutions for the care and training of children whether or not underprivileged. p. 10515
26. SEED. Passed without amendment S. 1688, to remove the criminal penalty for inadvertent violations of the Federal Seed Act and to prescribe civil penalties for such violations of the Act. This bill is now ready for the President. p. 10516
27. COMMODITY EXCHANGES. Passed as reported H. R. 9333, to give to certain consuming processors of cotton the privilege of buying cotton futures contracts in certain cases. p. 10516
28. TRANSPORTATION. At the request of Rep. Ford, after some discussion, passed over S. 898, to amend the Interstate Commerce Act, with respect to the authority of

the Interstate Commerce Commission to regulate the use by motor carriers (under leases, contracts, or other arrangements) of motor vehicles not owned by them, in the furnishing of transportation of property. p. 10512

29. **CONTRACTS.** The Ways and Means Committee reported on June 30 with amendment H.R. 11947, to extend and amend the Renegotiation Act of 1951 (H. Rept. 2549). p. 10560
30. **SOIL CONSERVATION.** The Agriculture Committee reported without amendment H. R. 8321, to further extend the period of Federal administration of the ACP program from Jan. 1, 1957 to Jan. 1, 1959 (H. Rept. 2570). p. 10561
31. **PERSONNEL.** Passed without amendment S. 1542, to authorize an allowance for civilian officers and employees of the Government who are notaries public. This bill is now ready for the President. p. 10508
At the request of Rep. Gross, passed over S. 1815, to permit the exchange of employees of the USDA and employees of State-local political subdivisions or educational institutions. p. 10515
Passed without amendment H. R. 11923, to provide for the conferring of an award to be known as the Medal for Distinguished Civilian Achievement. p. 10519
The Executive and Legislative Reorganization Subcommittee of the Government Operations Committee ordered reported to the full committee H. R. 11515, to provide for the payment of travel and transportation costs of persons selected for appointment to certain positions in the U. S. and Alaska. p. D726
32. **RECORDS.** At the request of Rep. Cunningham, passed over S. 2364, to clarify GSA authority over records management. p. 10499
33. **WATER PLANTS.** Passed without amendment H. R. 11636, to amend Chapter 3 of Title 18, U. S. Code, to provide penalties for the transportation, sale of, or advertising for sale, in interstate commerce, of water hyacinth plants, water chestnut plants, or alligator grass. p. 10505
34. **BUILDINGS.** Passed without amendment S. 3866, to facilitate the making of lease-purchase agreements by GSA by deleting the requirement for approval of purchase contract agreements by the Director of the Bureau of the Budget and adding a requirement that the project statement by the Director shall be based on budgetary and related considerations, and not deemed to constitute approval of specific terms or provisions of any proposed agreement or of the selection of any particular contractor or lessor. This bill is now ready for the President. p. 10510.
35. **WEATHER.** Passed without amendment S. 2913, to extend for two years (until June 30, 1958) the Advisory Committee on Weather Control. This bill is now ready for the President. p. 10510
36. **RESEARCH; ORGANIZATION.** Passed without amendment H. R. 11575, to provide for an Assistant Secretary for Research and Development for each of the three military departments within the Defense Department. p. 10524
37. **FLOOD CONTROL.** Passed with amendment S. 3272, to increase and make certain revisions in the general authorization for small flood control projects. A similar bill, H. R. 9555, was laid on the table. p. 10529

now exist, or which may become necessary to any operations of the United States on or in connection with the remaining portion of said lands at the Armed Forces Experimental Training Activity, Camp Peary, near Williamsburg, Va.

SEC. 4. The conveyance of the property authorized by this act shall be upon condition that such property shall be used for training of the National Guard and the Air National Guard and for other military purposes, and that if the State of Virginia shall cease to use the property so conveyed for the purposes intended, then title thereto shall immediately revert to the United States, and in addition, all improvements made by the State of Virginia during its occupancy shall vest in the United States without payment of compensation therefor.

SEC. 5. The conveyance of the property authorized by this act shall be upon the further provision that whenever the Congress of the United States declares a state of war or other national emergency, or the President declares a state of emergency, and upon the determination by the Secretary of Defense that the property conveyed under this act is useful or necessary for military, air, or naval purposes, or in the interest of national defense, the United States shall have the right, without obligation to make payment of any kind, to reenter upon the property and use the same or any part thereof, including any and all improvements made thereon by the State of Virginia, for the duration of such state of war or of such emergency. Upon the termination of such state of war or such emergency plus 6 months, such property shall revert to the State of Virginia, together with all appurtenances and utilities belonging or appertaining thereto.

SEC. 6. In executing the deed of conveyance authorized by this act, the Secretary of the Army or his designee shall include specific provisions covering the reservations and conditions contained in sections 2, 3, 4, and 5 of this act.

SEC. 7. The cost of any surveys necessary as an incident to the conveyance authorized herein shall be borne by the State of Virginia.

With the following committee amendment:

Page 4, lines 1 and 2, strike the words "and the Air National Guard."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

COASTWISE TRADE

The Clerk called the bill (H. R. 11122) to promote the development and rehabilitation of the coastwise trade, to encourage the construction of new vessels, and for other purposes.

Mr. CUNNINGHAM. Mr. Speaker, I understand that this bill is programed to be called up under suspension of the rules. Therefore, I ask unanimous consent that it be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

PRIVATE FINANCING OF PASSENGER VESSELS

The Clerk called the bill (H. R. 11554) to amend certain provisions of title XI of the Merchant Marine Act, 1936, as

amended, to facilitate private financing of passenger vessels in the interest of national defense, and for other purposes.

Mr. CUNNINGHAM. Mr. Speaker, I understand that this bill will be called up under suspension of the rules today. Therefore, I ask unanimous consent that it be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

WATERSHED PROJECTS

The Clerk called the bill (H. R. 11873) to amend the Watershed Protection and Flood Prevention Act so as to eliminate delay in the start of projects.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That section 5 of the Watershed Protection and Flood Prevention Act is amended by striking out of the third proviso of said section the words "forty-five" and inserting "fifteen."

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

INTERCHANGE OF CERTAIN FEDERAL AND STATE EMPLOYEES

The Clerk called the bill (S. 1915) to provide for further effectuating the act of May 15, 1862, through the exchange of employees of the United States Department of Agriculture and employees of State political subdivisions or educational institutions.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. GROSS. Reserving the right to object, Mr. Speaker, I wonder if someone will tell me whether this would provide for an increase in the number of employees through this exchange?

Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

EXTENSION OF SPECIAL SCHOOL MILK PROGRAM

The Clerk called the bill (H. R. 11375) to amend the Agricultural Act of 1949, as amended, to further extend the special school milk program to certain institutions for the care and training of children.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the last sentence of section 201 (c) of the Agricultural Act of 1949, as amended, is amended to read as follows: "For the period beginning September 1, 1954, and ending June 30, 1955, not to exceed \$50 million, and for the fiscal year ending June 30, 1956, not to exceed \$60 million, and for each of the 2 fiscal years in the period beginning July 1, 1956, and ending June 30, 1958, not to exceed \$75 million, of the funds of the Commodity Credit Corporation shall be used to increase the consumption of fluid

milk by children in (1) nonprofit schools of high-school grade and under; and in (2) nonprofit nursery schools, child-care centers, settlement houses, summer camps, and similar nonprofit institutions devoted to the care and training of children."

Mr. JOHNSON of Wisconsin. Mr. Speaker, on May 22, 1956, I introduced H. R. 11375 to amend section 201 (c) of the Agricultural Act for the purpose of clarifying language in the act to extend the school-milk program to agencies and institutions now barred from receiving school milk by a recent ruling of the United States Department of Agriculture.

After introducing the bill, I received communications from a number of religious organizations, organizations engaged in youth activities, farm organizations, and dairy groups expressing support of the bill.

When the Dairy Subcommittee of the House Agriculture Committee held hearings on the bill, representatives of the National Milk Producers Federation, the Milk Industry Foundation, the Dairy Industry Committee, and the National Farmers Union testified in favor of H. R. 11375.

The House Agriculture Committee voted unanimously on June 21 to report the bill out to the House.

Under the law, as it now stands, school milk can be given free only to nonprofit nursery schools, child-care centers, settlement houses, summer camps, and similar nonprofit institutions if the children are underprivileged and on a public welfare basis.

My bill, H. R. 11375, eliminates all reference to underprivileged children on a public welfare basis. H. R. 11375 permits the use of CCC funds for the purpose of increasing the consumption of fluid milk in nonprofit nursery schools, child-care centers, settlement houses, summer camps, and similar nonprofit institutions devoted to the care and training of children.

On the basis of conferences I have had with United States Department of Agriculture officials, it is my understanding that if all nonprofit agencies serving children were eligible to receive school milk without restrictions on the matter of recipients being on public welfare several hundred thousand more children would be receiving school milk.

In Wisconsin, where considerable progress has been made in extension of the school-milk program to organizations other than schools, a survey was made recently to determine the number of children that would be eligible under the present program. The survey indicates that 31 child-care institutions serving 4,600 children are eligible.

However, if authority was broadened—as proposed in my bill—279 institutions or programs would serve 85,000 children under H. R. 11375.

Present legislation excludes many organizations serving a substantial number of children. Among these groups are the Boy Scouts, Girl Scouts, Camp Fire Girls, 4-H Clubs, YMCA, church groups, and summer camps or recreation programs operated by city recreation departments or park commissioners.

For example, 270 camps in Massachusetts now receive surplus foods; however, only 20 to 25 of these camps can qualify on the basis of giving milk to underprivileged children on a public welfare status. Similarly, summer recreation programs in the Boston area and in Philadelphia are excluded under present authority.

The same situation applies to many other States where hundreds or thousands of children are excluded from receiving milk because they are not on public welfare.

In conclusion, I wish to thank the House Agriculture Committee, the House Dairy Subcommittee and the House itself for supporting H. R. 11375.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AMENDMENTS TO FEDERAL SEED ACT

The Clerk called the bill (S. 1688) to amend the Federal Seed Act.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That section 406 of the Federal Seed Act (7 U. S. C. 1956) is amended to read as follows:

"(a) Any person who knowingly, or as a result either of gross negligence or of a failure to make a reasonable effort to inform himself of the pertinent facts, violates any provision of this act or the rules and regulations made and promulgated thereunder shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall pay a fine of not more than \$1,000, for the first offense, and upon conviction for each subsequent offense not more than \$2,000."

"(b) Any person who violates any provision of this act or the rules and regulations made and promulgated thereunder shall forfeit to the United States a sum, not less than \$25 or more than \$500, for each such violation, which forfeiture shall be recoverable in a civil suit brought in the name of the United States."

SEC. 2. Section 204 of the Federal Seed Act (7 U. S. C. 1574) is amended to read as follows:

"SEC. 204. The use of a disclaimer or non-warranty clause in any invoice, advertising, labeling, or written, printed, or graphic matter, pertaining to any seed shall not constitute a defense, or be used as a defense in any way, in any prosecution or other proceeding brought under the provisions of this act, or the rules and regulations made and promulgated thereunder."

SEC. 3. Section 412 of the Federal Seed Act (7 U. S. C. 1602) is amended to read as follows:

"SEC. 412. The institution of any one of the proceedings provided for in sections 405, 406, 409, 410, and 411 shall not bar institution of any of the others, except that action shall not be instituted under both subsections 406 (a) and (b) for the same cause of action. Nothing in this act shall be construed as requiring the Secretary of Agriculture to recommend prosecution, or institution of civil penalty proceedings, libel proceedings, cease-and-desist proceedings, or proceedings for the enforcement of a cease-and-desist order, for minor violations of this act or the rules and regulations made and promulgated thereunder whenever he believes that the public interest will be adequately served by suitable written notice or warning."

SEC. 4. The amendments made by this act shall be applicable only with respect to vio-

lations occurring after the enactment of this act.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CONFIDENCE GAME SWINDLES

The Clerk called the bill (S. 997) to provide punishment for certain confidence game swindles.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That section 2314 of title 18, United States Code, be, and it is hereby, amended by inserting therein immediately after the first paragraph thereof, a new paragraph to read as follows:

"Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transports or causes to be transported, or induces any person to travel in, or to be transported in interstate commerce in the execution or concealment of a scheme or artifice to defraud that person of money or property having a value of \$5,000 or more; or."

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

TRAINING OF FISHING INDUSTRY PERSONNEL

The Clerk called the bill (H. R. 10433) to promote the fishing industry in the United States and its Territories by providing for the training of needed personnel for such industry.

Mr. CUNNINGHAM. Mr. Speaker, it is my understanding that this bill is programmed by the leadership to come up under suspension of the rules. Therefore, I ask unanimous consent that it be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

BRIDGE ACROSS THE MISSISSIPPI RIVER, ROCK ISLAND, ILL.

The Clerk called the bill (S. 2091) authorizing the reconstruction, enlargement, and extension of the bridge across the Mississippi River at or near Rock Island, Ill.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the first section of the act entitled "An act authorizing the city of Rock Island, Ill., or its assigns, to construct, maintain, and operate a toll bridge across the Mississippi River at or near Rock Island, Ill., and to a place at or near the city of Davenport, Iowa," approved March 18, 1938, is amended by inserting "(a)" immediately after "That" and by adding at the end thereof the following new subsection:

"(b) The city of Rock Island, Ill., or any State or political subdivision thereof which may have acquired the bridge constructed pursuant to the subsection (a) of this section, is hereby authorized, subject to the prior approval of the plans by the Chief of Engineers and the Secretary of the Army, to reconstruct and enlarge such bridge and to

reconstruct, enlarge, and extend the approaches to such bridge, including, but not limiting the generality of the foregoing, the altering, widening, laying out, opening or constructing of any streets, avenues or boulevards within or without any municipality deemed necessary by said city, or any State, public agency, or political subdivision that may take over or acquire said bridge in order to provide adequate traffic regulations and approach or approaches to the said bridge: *Provided*, That such approaches shall include only those necessary portions of streets, avenues, and boulevards which are directly connected with the bridge, or which are located immediately adjacent thereto, and whose principal use is to provide access to the bridge."

SEC. 2. Section 2 of such act of March 18, 1938, is amended by inserting "(including reconstructing, enlarging, and extending such bridge and its approaches)" after "and its approaches."

SEC. 3. Section 4 of such act of March 18, 1938, is amended to read as follows:

"SEC. 4. In fixing the rates of toll to be charged for the use of such bridge the same shall be so adjusted as to provide a fund sufficient to pay for the reasonable cost of maintaining, repairing, and operating the bridge and its approaches (including the reasonable cost of reconstructing, enlarging, and extending such bridge and its approaches) under economical management, and to provide a sinking fund sufficient to amortize the cost of such bridge and its approaches, including reasonable interest and financing cost, as soon as possible, under reasonable charges, but within a period of not to exceed 30 years from the completion of the reconstruction, enlargement, and extension of such bridge and its approaches as provided in subsection (b) of the first section of this act. After a sinking fund sufficient for such amortization shall have been so provided, such bridge shall thereafter be maintained and operated free of tolls in accordance with such arrangement as may be agreed upon by the city of Rock Island, Ill., or its assigns, and the State highway departments or other appropriate agencies of the States of Iowa and Illinois. An accurate record of the cost of the bridge and its approaches; the expenditures for maintaining, repairing, and operating the same; the expenditures for reconstructing, enlarging, and extending the same; and all of the daily tolls collected shall be available for the information of all persons interested."

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AMENDMENT OF COMMODITY EXCHANGE ACT

The Clerk called the bill (H. R. 9333) to amend the Commodity Exchange Act to give certain consuming processors of cotton the privilege of buying cotton futures contracts in certain cases.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. GROSS. Reserving the right to object, Mr. Speaker, will the author of the bill give us a brief explanation of what is proposed to be done by this bill?

Mr. GATHINGS. Yes, I shall be glad to do so.

This bill was carefully and thoroughly considered by the subcommittee and the full Committee on Agriculture. Three days of hearings were held. It provides

Public Law 662 - 84th Congress
Chapter 520 - 2d Session
S. 1688

AN ACT

All 70 Stat. 508.

To amend the Federal Seed Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 406 of the Federal Seed Act (7 U. S. C. 1596) is amended to read as follows: 53 Stat. 1286.

“(a) Any person who knowingly, or as a result either of gross negligence or of a failure to make a reasonable effort to inform himself of the pertinent facts, violates any provision of this Act or the rules and regulations made and promulgated thereunder shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall pay a fine of not more than \$1,000, for the first offense, and upon conviction for each subsequent offense not more than \$2,000.” Penalties.

“(b) Any person who violates any provision of this Act or the rules and regulations made and promulgated thereunder shall forfeit to the United States a sum, not less than \$25 or more than \$500, for each such violation, which forfeiture shall be recoverable in a civil suit brought in the name of the United States.”

SEC. 2. Section 204 of the Federal Seed Act (7 U. S. C. 1574) is amended to read as follows: 53 Stat. 1282.

“SEC. 204. The use of a disclaimer or nonwarranty clause in any invoice, advertising, labeling, or written, printed, or graphic matter, pertaining to any seed shall not constitute a defense, or be used as a defense in any way, in any prosecution or other proceeding brought under the provisions of this Act, or the rules and regulations made and promulgated thereunder.” Disclaimers and nonwarranties.

SEC. 3. Section 412 of the Federal Seed Act (7 U. S. C. 1602) is amended to read as follows: 53 Stat. 1288.

“SEC. 412. The institution of any one of the proceedings provided for in sections 405, 406, 409, 410, and 411 shall not bar institution of any of the others, except that action shall not be instituted under both subsections 406 (a) and (b) for the same cause of action. Nothing in this Act shall be construed as requiring the Secretary of Agriculture to recommend prosecution, or institution of civil penalty proceedings, libel proceedings, cease-and-desist proceedings, or proceedings for the enforcement of a cease-and-desist order, for minor violations of this Act or the rules and regulations made and promulgated thereunder whenever he believes that the public interest will be adequately served by suitable written notice or warning.” Separability of proceedings.

SEC. 4. The amendments made by this Act shall be applicable only with respect to violations occurring after the enactment of this Act.

Approved July 9, 1956.

